

I personally can not go. I shall present the deficiency bill as soon as I have the opportunity, but I would hate to present a deficiency bill that has as many intricate and troublesome questions in it as this one has when the House is not feeling very kindly toward the committee. If, therefore, some member of the Committee on Appropriations shall become responsible for denying the Members a right to take a trip of this kind, we might not expedite the transaction of Government business. I shall not object, Mr. Speaker, so far as any request is made, but, not being interested, I do not believe that the request should come from me.

Mr. MONDELL. Mr. Speaker, in view of the statement of the chairman of the Committee on Appropriations, I ask unanimous consent that when the House adjourns to-day it adjourn to meet on Friday next.

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

There was no objection.

#### DEFICIENCY APPROPRIATION BILL.

Mr. GOOD, by direction of the Committee on Appropriations, reported the bill (H. R. 6300) making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1921, and prior fiscal years, and for other purposes, which was read a first and second time, and, together with the accompanying report, ordered printed and referred to the Committee of the Whole House on the state of the Union.

Mr. BYRNS of Tennessee. Mr. Speaker, I reserve all points of order on the bill.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed without amendment the bill (H. R. 2173) authorizing the construction, maintenance, and operation of a private drawbridge over and across Lock No. 4 of the canal and locks, Willamette Falls, Clackamas County, Oreg.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 906. An act for the relief of Reuben R. Hunter;

S. 1060. An act to amend an act entitled "An act to punish the transportation of stolen motor vehicles in interstate or foreign commerce," approved October 29, 1919;

S. 1072. An act to amend the act entitled "An act to provide that the United States shall aid in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes;

S. 494. An act for the relief of Benjamin O. Kerlee;

S. 990. An act to provide for the sale by the Commissioners of the District of Columbia of certain land in the District of Columbia required for a school site, and for other purposes;

S. 1358. An act to provide for maintaining the Corps of Cadets at the United States Military Academy at its maximum authorized strength, and for other purposes;

S. 937. An act to reimburse Isaiah Stephens, postmaster of McMechen, Marshall County, W. Va., for money and postage stamps stolen; and

S. 938. An act to reimburse S. S. Buzzard, postmaster at Berkeley Springs, Morgan County, W. Va., for cash stolen.

The message also announced that the Senate had passed without amendment the bill (H. R. 4586) 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.

#### ENROLLED BILLS SIGNED.

Mr. RICKETTS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 4075. An act to limit the immigration of aliens into the United States.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 594. An act for the relief of certain ex-service men whose rights to make entries on the North Platte irrigation project, Nebraska-Wyoming, were defeated by intervening claims; and

S. 1479. An act granting the consent of Congress to the Washington & Old Dominion Railway, a corporation, to construct a bridge across the Potomac River.

#### CALENDAR WEDNESDAY.

The SPEAKER. To-day is Calendar Wednesday. The Clerk will call the roll of committees.

The Clerk proceeded with the call of committees, and called the Committee on Banking and Currency.

Mr. GARNER. Mr. Speaker, the Clerk has called the Committee on Banking and Currency but once. It has been customary heretofore to call each committee the second time. I therefore expect that the Committee on Banking and Currency will be called the second time.

The SPEAKER. The Clerk will call the committee the second time.

The Clerk again called the Committee on Banking and Currency.

Mr. GARNER. Mr. Speaker, let me ask if the gentleman from Pennsylvania [Mr. McFADDEN], the chairman of the Committee on Banking and Currency, is present?

Mr. MONDELL. I am informed that the chairman of the Committee on Banking and Currency does not expect to call up any bill to-day.

The SPEAKER. The Clerk will proceed with the call.

Mr. GARNER. Mr. Speaker, I ask unanimous consent to proceed for one minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. GARNER. Mr. Speaker, an important bill has been reported from the Committee on Banking and Currency, a bill in which the wheat and cotton growers of the country are very much interested. The law known as the Edge Act is very deficient in the matter of arranging foreign credits, and I do hope that the gentleman from Wyoming will use his influence with the gentleman from Pennsylvania, the chairman of the Committee on Banking and Currency, to get that bill before the House as soon as possible. It is of vast interest; it is a matter in which the farming industry of this country is very much interested, and I was in hopes that it could be passed to-day, within the hour.

Mr. MONDELL. Mr. Speaker, the bill in question to which the gentleman refers is no doubt an important bill, although there is considerable difference of opinion as to whether it would greatly help the farmer and the cotton grower, as the gentleman's statement would seem to indicate. The Committee on Interstate and Foreign Commerce have a very important bill which they desire to pass to-day. It is not only of importance but presents a matter requiring early attention. The State Department is very anxious to have the matter considered at an early date. In view of these considerations, the chairman of the Committee on Banking and Currency does not intend to insist upon the right of his committee to-day.

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

Mr. MONDELL. Yes.

Mr. STEVENSON. Does the gentleman have any idea that within the next week or two the measure to which the gentleman from Texas referred will be gotten up?

Mr. MONDELL. Just how soon we can reach it I can not say, but I trust within a reasonable length of time.

Mr. WALSH. Mr. Speaker, I demand the regular order.

Mr. KING. Mr. Speaker, I ask unanimous consent to proceed for one minute.

The SPEAKER. Is there objection.

Mr. KING. Mr. Speaker, at the request of the floor leader, I withdraw my request.

The SPEAKER. The Clerk will proceed with the call of committees.

The Clerk proceeded with the call.

#### LANDING OF SUBMARINE CABLES IN THE UNITED STATES.

Mr. WINSLOW (when the Committee on Interstate and Foreign Commerce was called). Mr. Speaker, by direction of the Committee on Interstate and Foreign Commerce I call up the bill (S. 535) to prevent the unauthorized landing of submarine cables in the United States, which I send to the desk and ask to have read.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That no person shall land or operate in the United States any submarine cable directly or indirectly connecting the United States with any foreign country, or connecting one portion of the United States with any other portion thereof, unless a written license to land or operate such cable has been issued by the President of the United States: *Provided, however,* That any cable now laid within the United States without a license granted by the President may continue to operate without such license for a period of 90 days from the date of approval of this act.

Sec. 2. That the President may withhold or revoke such license when he shall be satisfied that such action will assist in securing rights for the landing or operation of cables in foreign countries, or in maintaining the rights or interests of the United States or of its citizens in foreign countries, or will promote the security of the United States, or may grant such license upon such terms as shall be necessary to assure just and reasonable rates and service in the operation and use of cables so licensed: *Provided,* That the license shall not contain terms or conditions granting to the licensee exclusive rights of landing or of operation in the United States: *And provided further,* That nothing herein contained shall be construed to limit the power and jurisdiction heretofore granted the Interstate Commerce Commission with respect to the transmission of messages.

Sec. 3. That the President is empowered to prevent the landing of any cable about to be landed in violation of this act. Any district court of the United States exercising jurisdiction in the district in which any cable is about to be landed or is being operated in violation of this act, or has been landed in violation of this act, shall have jurisdiction to enjoin the landing or operation of such cable, or to compel by injunction the removal of such cable. If a license to land a cable shall be granted under this act, and if the conditions of such license shall not be complied with, any district court of the United States exercising jurisdiction in the district in which such cable shall have been landed shall have jurisdiction by injunction to prevent the operation of such cable or cause the removal thereof.

Sec. 4. That whoever knowingly commits, instigates, or assists in any act forbidden by section 1 of this act shall be guilty of a misdemeanor and shall be fined not more than \$5,000, or imprisoned for not more than one year, or both.

Sec. 5. That the term "United States" as used in this act includes the Canal Zone, the Philippine Islands, and all territory, continental or insular, subject to the jurisdiction of the United States of America.

Sec. 6. That no right shall accrue to any Government, person, or corporation under the terms of this act that may not be rescinded, changed, modified, or amended by the Congress.

Amend the title so as to read: "An act relating to the landing and operation of submarine cables in the United States."

With the following committee amendments:

Page 1, line 8, after the word "provided," strike out the word "however."

Line 9, after the word "any," insert the word "such."

Line 12, after the word "date," strike out the words "of the approval of"; and after the word "act," insert "And provided further, That the conditions of this act shall not apply to cables, all of which, including both terminals, lie wholly within the continental United States."

Page 2, line 5, after the word "satisfied," insert "after due notice and hearing."

Mr. WINSLOW. Mr. Speaker, I would like to make any arrangement that is necessary for a division of time.

The SPEAKER. No arrangement is necessary. The gentleman from Massachusetts has one hour, at the end of which time he can move the previous question if he so desires. The House, of course, by unanimous consent, can come to any agreement it wishes. Does the gentleman make any suggestion?

Mr. WINSLOW. Mr. Speaker, the gentleman from Illinois [Mr. DENISON] has indicated a desire to oppose the bill, and has suggested that he would like to control the time.

The SPEAKER. Has the gentleman from Illinois a request to submit?

Mr. DENISON. Mr. Speaker, I have forgotten just at this moment the amount of time allotted under the rule.

The SPEAKER. The rules do not make any provision. This comes up under the ordinary rules of the House. The gentleman from Massachusetts has one hour, and then if he yields the floor some one in opposition can be recognized for one hour, but if the gentleman from Massachusetts moves the previous question within the hour, as he has the right to do, and the House should sustain him, there would be in that case only one hour of debate.

Mr. WINSLOW. Mr. Speaker, I think we will proceed with the hour.

The SPEAKER. The gentleman from Massachusetts has one hour which he can use as he pleases.

Mr. WINSLOW. Mr. Speaker and gentlemen of the House, this S. 535 is a very important bill. The passage of the legislation proposed by this bill will affect very materially the internal interests of this country, and also the policy of this country in respect of all local cable matters in connection with foreign countries. The time for debate is not long. Members of the Committee on Interstate and Foreign Commerce are very well advised as to all the features of the bill and the history connected with it. Several of them will explain the matters of particular interest to the Members, and they will take up the history of cable legislation, the matter of authority over cables, and other questions which are pertinent to the discussion of this bill. The report has been prepared on behalf of the committee by the gentleman from Washington [Mr. WEBSTER] and is a very informing statement of the general proposition. In order that we may get at the bill without delay and with the least duplication of statement in reference to its provisions, I will now yield 15 minutes to the gentleman from Washington [Mr. WEBSTER]. [Applause.]

Mr. WEBSTER. Mr. Speaker, the bill now under consideration undertakes to define a broad national policy with respect to the important matter of submarine cable landings and operation in the United States and to set up a suitable machinery to give expression to that policy. Briefly the bill contemplates that the President shall have the power to prevent the landing of cables on the shores of the United States unless the parties interested bring themselves within the provisions of this bill. It confers upon the President the power to grant licenses and to grant licenses upon conditions. It grants him the power to prevent the unauthorized landing of such cables. It empowers him to regulate the operation of cables to a certain degree and authorizes him to bring about the removal of any cables which

may be operated contrary to the provisions of the bill. The measure comes to the House at this time under a peculiar urge—the urge of an extraordinary emergency of very far-reaching importance. It may conduce to clearness, Mr. Speaker, if the general situation is sketched in brief. The authority of the President of the United States to deal with the matter of submarine cable landings and operation has been asserted and exercised in this country for more than half a century. The first instance giving rise to the exercise of the power occurred during the administration of President Grant in 1869. In that year a French cable company, enjoying certain monopolistic privileges in France with reference to communication between that country and America, undertook to land a submarine cable on the shores of the United States. President Grant considered that he could not stand by and permit a thing of that sort to be done. He interposed objection and insisted that before this cable could invade our shores the monopolistic feature of the French grant should be abandoned, and that citizens of America engaged in similar enterprises should be accorded the same rights in France as the French company was seeking in the United States. In his message to the Congress in 1875 President Grant defined a wise, broad, and wholesome policy with reference to this matter. I believe it will be very helpful if we have these fundamental principles well in mind.

He said in part:

In the absence of legislation by Congress I was unwilling, on the one hand, to yield to a foreign State the right to say that its grantees might land on our shores while it denied a similar right to our people to land on its shores, and, on the other hand, I was reluctant to deny to the great interests of the world and of civilization the facilities of such communication as were proposed. I therefore withheld any resistance to the landing of the cable on condition that the offensive monopoly feature of the concession be abandoned and that the right of any cable which may be established by authority of this Government to land upon French territory and to connect with French land lines and enjoy all the necessary facilities or privileges incident to the use thereof upon as favorable terms as any other company be conceded.

1. No line should be allowed to land on the shores of the United States under the concession from any other power which does not admit the right of any other line or lines formed in the United States to land and freely connect with and operate through its land lines.

2. No line should be allowed to land on the shores of the United States which is not by treaty stipulation with the Government from whose shores it proceeds or by prohibition in its charter or otherwise to the satisfaction of this Government prohibited from consolidating or amalgamating with any other cable-telegraph line or combining therewith for the purpose of regulating and maintaining the cost of telegraph.

In the meantime, and unless Congress otherwise directs, I shall not oppose the landing of any telegraphic cable which complies with and assents to the points above enumerated, but will feel it my duty to prevent the landing of any which does not conform to the first and second points as stated, and which will not stipulate to concede to this Government the precedence in the transmission of its official messages, and will not enter into a satisfactory arrangement with regard to its charges.

Mr. Speaker, since the definition of this broad policy by President Grant, distinguished Secretaries of State and Attorneys General, among them Fish, Evarts, Frelinghuysen, Bayard, Blaine, Day, Hay, Root, Richards, Griggs, Wickersham, and McReynolds, have upheld the right of the Chief Executive to deal with submarine cable landings. There seems to be but a single break in this chain of thought, and that occurred during the administration of President Cleveland when Secretaries Gresham and Olney held to the contrary view, taking the position that there is no inherent power in the Executive to control cable landings. With that single exception, however, the policy has been uniform. It was renewed immediately after the termination of the Cleveland administration and has continued down to and including the time when Mr. Justice McReynolds, then Attorney General of the United States, reasserted it. The exercise of this power now is challenged in the courts of the country, the facts giving rise to the litigation being briefly these: The Western Telegraph Co. is a British corporation enjoying monopolistic cable concessions in South America. It entered into a contract with the Western Union Telegraph Co. of this country under the terms of which the British company was to extend a line of cable from a point in Brazil to the island of Barbados. The Western Union Co. undertook to lay a line of cable from Miami Beach, Fla., to Barbados, so as to connect with the British company's line and establish through communication between the United States and Brazil. In the effort to carry out its part of the contract the Western Union Co. made application to Secretary of State Colby for an executive permit in pursuance of the settled policy applicable to such cases. There is some controversy as to what transpired in detail, but there is no room for debate as to this naked fact: It did not receive the permit sought. Notwithstanding this, the Western Union Co. proceeded to lay its cable without permission and without authority, taking the position that no permission was necessary.

At this point President Wilson ordered the Secretary of the Navy to send a battleship to the point where the Western

Union was carrying on its operations and to compel them to cease. Rear Admiral Anderson, in charge of a war vessel, proceeded to Miami, Fla., and there compelled the Western Union to stop its work in the laying of the cable. Whereupon the Western Union Co. applied to the district court of the District of Columbia for an injunction against the Secretary of the Navy, restraining him from interfering with the company in the laying of its cable. That case is now held under advisement in the district court. Later the United States of America in its governmental capacity, and as such, went to the Federal court for the southern district of New York and instituted an action against the Western Union Co., wherein an injunction was sought against the Western Union Co. restraining it from further attempting to lay the cable. The case was presented to the district court at length. Judge Hand, of that court, seems to have held that there is no authority vested in the President of the United States to control the matter of cable landings, especially where the case is one involving an American company which has complied with the provisions of the so-called post roads act of July 24, 1866. The case was appealed to the circuit court of appeals for the second circuit, and the opinion of Judge Hand was affirmed. The United States has appealed the case to the Supreme Court, where it has been fully presented, and is now under submission for final decision.

It will readily be seen that if the opinion of the circuit court of appeals is sustained it will be on the theory that under the commerce clause of the Constitution the sole power over submarine cables—instrumentalities of commerce—is vested in the Congress. In consequence the President will be shorn of his power, the settled policy of the Nation will be cast aside, and unless some appropriate congressional action is taken to meet the situation the United States of America will be reduced to the humiliating spectacle of being the only nation in Christendom which does not have some machinery whereby it may protect its shores against invasion by foreign cable companies. That is the urge of this bill at this time. I sincerely hope that the Members of the House will be impressed with the seriousness of the situation and will not leave this Nation exposed to that humiliation.

It might be said in passing that there is broad room for difference of opinion as to whether this power does not already rest in the President. It is a mooted question, and save the litigation to which I have referred, has never been passed upon directly by any court.

I am inclined to the view, however, that whatever the law may be at this time, there can be little room for difference of opinion as to where the authority ought to be lodged. In all the countries of which I know the power to deal with submarine cables is an executive power. Frequently these cables are laid as the result of negotiations between this country and foreign nations, and it seems highly appropriate that the President of the United States shall be the spokesman for this country in conducting its diplomatic operations.

There has been some difference of opinion as to the details of the bill, but I believe the fundamental thought underlying the measure, that the Executive shall be clothed with ample power and authority to deal with this question, is approved by every thoughtful person who has devoted any attention to the question.

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. WINSLOW. Mr. Speaker, I yield five minutes more to the gentleman.

Mr. JONES of Texas. Will the gentleman yield for a brief question?

Mr. WEBSTER. I yield.

Mr. JONES of Texas. Is there any other American company that desires to do business in this same territory that this company connects with?

Mr. WEBSTER. The All-American Cable Co. now has cable connection with South America on the western coast, and that company, too, is in the enjoyment of certain monopolistic privileges. It is the purpose of this bill to define a general and comprehensive policy which will place it in the power of the Chief Executive to protect the rights of the people of this country and of this Nation as such as to grants that are now in existence as well as those which may come into existence and to eliminate monopolistic or other objectionable features which in his judgment are inimical to the interests of this country.

It can not be truthfully said that a uniform course has been pursued with respect to the policy of denying the right to cable companies to land on our shores if they have monopolistic privileges abroad. Such has been the policy, but it has not at all times been strictly followed. As to the economic wisdom of the policy, I prefer not to go into it for lack of time.

The first section of this bill provides:

That no person shall land or operate in the United States any submarine cable directly or indirectly connecting the United States with any foreign country, or connecting one portion of the United States with any other portion thereof, unless a written license to land or operate such cable has been issued by the President of the United States.

Some contention has been made that it is not within the power of the Congress to delegate this authority. It is said that if the Congress has the power to enact this law at all it has it in virtue of the commerce clause of the Constitution; and that under the A B C rule that legislative functions may not be delegated, the bill is open to attack on constitutional grounds. I have given careful thought to that question, and I know it has been considered by other members of the committee. I am convinced in my own mind that this bill is not open to that attack. We have the power to set up an executive or an administrative agency through which we may give expression to our legislative functions. The only objection is, have we so defined the rules and regulations as to save the bill against the criticism that it confers arbitrary power? But the courts of this country have dealt with this question many times. There is not a thing novel about that problem. The courts have recognized this directing and guiding principle, that if the subject being dealt with is of such a character that it is not practicable to set up definite guideposts and standards, the power may be delegated in more general terms and the courts will find the means to give expression to the legislative purpose. The agency created may be intrusted with very broad discretionary powers in cases of that kind. If a case can be conceived that comes within that broad principle, it is one dealing with an international problem such as the landing of cables upon our shores, each instance of which embodies new conditions, new facts, new circumstances, and new situations. I am convinced that this bill is not open to the attack I have just suggested.

Mr. HUSTED. Will the gentleman yield?

Mr. WEBSTER. I will yield.

Mr. HUSTED. The Western Union Co., as I understand it, actually made application for permission to connect with the British cable at Barbados?

Mr. WEBSTER. Yes.

Mr. HUSTED. And that request was denied?

Mr. WEBSTER. Yes.

Mr. HUSTED. What was the objection to the Western Union connecting with the British cable at Barbados?

Mr. WEBSTER. I will be glad to answer that. The record discloses this—

The SPEAKER. The time of the gentleman has again expired.

Mr. WINSLOW. I yield five minutes more to the gentleman.

Mr. WEBSTER. The Western Union Co. made application to Secretary Colby for executive permit to lay its cable.

At that time an international conference had been called to canvass the entire international situation with respect to submarine cable landings and operations. The Congress had passed an act authorizing the appointment of delegates to represent this country in that conference, and it was the thought of Secretary Colby that until that question had been gone over and fully considered the permit should be withheld. That was also the view of President Wilson. Subsequently some dispute arose as to whether the application had been denied or merely held in abeyance. But the fact remains that it was not granted.

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

Mr. WEBSTER. Certainly.

Mr. DEMPSEY. Does the gentleman see anything in this message of President Grant's that has any possible bearing on the question at issue in this bill? Does not President Grant simply deal with two questions, first, the landing of foreign cables, and second, restraining those who propose to connect their cables with our local companies and the landing of such cables, unless the monopolistic features are restrained and controlled?

Mr. WEBSTER. It has a much broader significance. There the President of the United States was called upon to exercise a power of doubtful existence in order to protect the shores of this country against invasion by foreign cable companies. I do not wish to see this Nation longer exposed to that hazard.

Mr. DEMPSEY. Yes; but I understand that this bill is proposed at this time with reference to the building of a line from Barbados to this country by an American company. How can that be in any way affected by the two precedents advanced by President Grant? What relation has that to the question raised here?

Mr. WEBSTER. The point made by President Grant was that this country would not allow a connection to be made here

by a foreign company if the country from which it came would not allow an American company to lay its cables on their shores. In this case the line of the American company connects at Barbados with the cable of a British company, which has a monopoly in Brazil, and that principle will be involved because other American companies can not go into Brazil and enjoy the same privileges which the British company has there.

Mr. DEMPSEY. The logic of the gentleman's statement is this, that the landing of an American cable in Barbados is equivalent to the landing of a foreign cable in the United States.

Mr. WEBSTER. No. The landing of a cable in Barbados and connecting it up with the British company holding a monopoly in South America is the gist of the proposition.

Mr. DEMPSEY. They connect with any company that they come in contact with in the course of the cable they lay?

Mr. WEBSTER. No. The British company agrees to extend its line to Barbados, and the Western Union to the same point, for the purpose of connecting up and establishing through communication with monopolistic Brazil.

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

Mr. WEBSTER. Yes.

Mr. MADDEN. As a matter of fact, are not all the Western Union cable lines owned by the English people and only leased by the Western Union Co.?

Mr. WEBSTER. I am not prepared to answer that question.

Mr. MADDEN. I think we disclosed that state of facts in the hearings of the Committee on the Post Office and Post Roads during the discussion of the control of telegraph and cable lines.

Mr. WEBSTER. I am not advised as to that matter.

Mr. JONES of Texas. Mr. Speaker, will the gentleman yield?

Mr. WEBSTER. Yes.

Mr. JONES of Texas. Will the British company allow the use of its lines by any other American company in Brazil?

Mr. WEBSTER. Under the terms of the British grant in South America no company can lay a cable to South America connecting any two ports now served by the British company. The only way the Western Union can get in there is through the contract entered into with the British company.

Mr. JONES of Texas. Has the British company insisted upon that exclusive right?

Mr. WEBSTER. It has insisted upon it.

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

Mr. WEBSTER. Yes.

Mr. OLIVER. There can be no question of the right of Congress to impose the prohibition provided for in section 1; but, as the gentleman says, it is a mooted question whether Congress has the right to delegate the authority conferred by the subsequent sections. Would it not be well to guard against possible adverse decision on such mooted question by inserting a provision that any part of this bill declared unconstitutional shall not invalidate other parts of the bill?

Mr. WEBSTER. In my opinion such a provision in a law performs no office at all.

The SPEAKER. The time of the gentleman from Washington has again expired.

Mr. OLIVER. The courts have held that such a provision does perform an important office, and Congress has wisely inserted such a proviso in many bills passed during recent years.

Mr. WINSLOW. Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from Massachusetts reserves the balance of his time. The Chair will recognize the gentleman from Illinois [Mr. DENISON] in opposition.

Mr. WEBSTER. Mr. Speaker, I ask unanimous consent to revise and extend my remarks in the RECORD.

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

There was no objection.

Mr. DENISON. Mr. Speaker and gentlemen of the House, it is with some embarrassment and reluctance that I oppose this bill. It is a great deal easier to go along with my committee, to be a good fellow, and let the action of the committee be unanimous. But I am opposed upon fundamental grounds to this bill, and therefore I can not conscientiously vote for it; and I did not want to simply vote against it without expressing in my feeble way some of the reasons which prompt me to do so. Therefore I am going to make a few general observations upon the bill, without any attempt whatever to defeat it, but in order to call the attention of the Members of the House to some of its provisions and to the general policy which the bill embodies.

The Constitution provides that all legislative power shall be vested in Congress; and at another place the Constitution pro-

vides that the Congress shall have power to regulate commerce with foreign nations and between the different States. In other words, the Constitution places the power to regulate commerce with foreign nations and among the several States exclusively in the Congress.

Now, this question of the landing of a cable on our shores or the connecting of this country with another country by means of a telegraph line or a cable line is simply a commercial question, a question of commerce. Congress has so said in legislation, and the courts have so held in judicial decisions, so that we have involved here nothing but a question of commerce, foreign commerce, and we are now considering legislation that will regulate it.

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

Mr. DENISON. Yes.

Mr. LINEBERGER. Are not strategic questions involved in time of war?

Mr. DENISON. Not at all, because in time of war the President can, under his war powers, take over all cable lines and all telegraph lines, and everything else that is necessary for the public safety. There is no question of the national security involved here. This is purely a question of commerce.

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

Mr. DENISON. Yes.

Mr. HUSTED. Is it the gentleman's position that if the court upholds the contention of the Government that this legislation is unnecessary?

Mr. DENISON. Yes.

Mr. HUSTED. And if the court upholds the contention of the Western Union Telegraph Co. it is the gentleman's position that we have delegated to the President authority that we have no right to delegate; that it is a matter within the regulation of commerce with foreign nations.

Mr. DENISON. That is practically my position. I think I can state it definitely. First, let me say that I am not particularly concerned with this lawsuit now pending in the Supreme Court between the Western Union Telegraph Co. and the Government. Let me say, gentlemen of the House, that that is a controversy growing out of competition between two cable companies, the Western Union and the All-American. This bill was prepared in the office of the attorneys of the All-American Co., the competitor of the Western Union. It was offered in the Senate by request, and so stated by the Senator who introduced the bill. The only witnesses who appeared before our committee for the bill were Elihu Root, attorney for the All-American Co., and a solicitor for the State Department.

Mr. WINSLOW. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. WINSLOW. Will the gentleman amend that by saying Elihu Root, jr.?

Mr. DENISON. Yes; Elihu Root, jr.; that is correct.

Mr. JONES of Texas. Will the gentleman yield?

Mr. DENISON. I will.

Mr. JONES of Texas. I want to ask for information: While Congress is given the power to control commerce, is not this largely an administrative function? Of course, when Congress is controlling the commerce it must necessarily have machinery for carrying out its power, and if it can confer on the Interstate Commerce Commission administrative functions, can it not confer upon the President administrative functions?

Mr. DENISON. Yes; but that is not what we are doing in this bill. This bill does not merely confer upon the President administrative functions. It confers upon him arbitrary and plenary power, without any limitations or rules of guidance prescribed by Congress. I do not want to make a misstatement. When I said that one of the witnesses for this bill was Elihu Root, that was correct; but, of course, it was Elihu Root, jr., a son of Elihu Root, sr., and, as I understand, a member of the same law firm, but of that I am not sure. I think, however, that was stated in the testimony.

Mr. NEWTON of Minnesota. I believe that Elihu Root, sr., is an advisory member of the law firm that is counsel for the All-American Co.

Mr. DENISON. So this is a contest between two competing companies that want to get the cable business of South America. The State Department has become involved in the matter, and therefore the State Department has come before the committee and urged this legislation. The Government and the Western Union got into litigation because the Western Union started to land a cable at Miami, Fla., believing it had the legal right to do so. They asked for a permit, following a long-prevailing custom, and the permit was held up, not denied but held up, until finally they got the cable laid and ready to connect with the shore, when the Navy Department sent down gunboats and stopped them.

Then the Government went into court. The case was tried in the district court and the Government's contention was not sustained. It went to the court of appeals and the Government was not sustained, and now the matter is in the Supreme Court, and a decision will be handed down probably in about two weeks. The Western Union has made this investment and is ready to connect up its cable, as it has been advised it has a right to do. If it loses its contention, it will take its medicine and accept its loss; and if it wins, it ought to have the right to land its cable. This legislation is intended to anticipate the decision of the Supreme Court, so that if the Western Union wins in court it will not be allowed to land anyway. With that controversy I am not concerned. I was willing to help pass an emergency bill to prevent the landing until Congress can enact some comprehensive legislation. I do not care anything about the controversy between the two companies. What I am addressing myself to is the fundamental principle and policy involved in the pending bill.

Mr. WEBSTER. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. WEBSTER. The gentleman has stated that there is nothing involved in this measure except a controversy between two commercial cable companies.

Mr. DENISON. No; I did not say exactly that; I said this is a controversy between the two cable companies, and the State Department has become involved in it.

Mr. WEBSTER. Does the gentleman want a hiatus to exist growing out of the affirmation of a judgment by the Supreme Court to the effect that the President has no authority in the premises because of the authority invested in Congress and then have Congress fail to provide for that condition of things?

Mr. DENISON. The gentleman from Washington evidently did not hear my last statement. I think I said that personally I was willing to pass an emergency bill to prevent their landing in case the Supreme Court's decision was in their favor, but I am not in favor of this bill as emergency legislation. It does purport to be emergency legislation, but is, in fact, enacted as a general policy, and I am opposed to it on fundamental grounds.

Mr. DAVIS of Tennessee. Will the gentleman yield?

Mr. DENISON. Certainly.

Mr. DAVIS of Tennessee. In regard to what the gentleman from Illinois said about the Department of State being drawn into the controversy, is it not a fact that the reason it was drawn into it was because the Western Union made application for this permit and, pending the Government action, the Western Union undertook surreptitiously to land the cable and the State Department undertook to defeat it?

Mr. DENISON. The gentleman from Tennessee is not exactly correct. The Western Union did make application for a permit in accordance with the usual custom. It was delayed, and in the meantime the Western Union had brought the cable over from England and landed it at Norfolk in order to let off enough to reach from the shore to the 3-mile line; they paid the duty on that, and then sent it down to Miami to make the connection. Perhaps they had an intimation from the State Department that the permit would not be issued. At any rate, they had bought the 1,900 miles of cable in good faith, I think, and had brought it over on a cable ship, and when you get a cable on a ship you have to do something with it; the only place you can put it is in the sea.

But I do not want to be understood as taking any part in the controversy between these cable companies as to whether they have the right to land or not. The controversy involves the alleged general power of the President to control the landing of all cables on our shores, as well as the alleged right to lay the cables under the so-called post roads act of Congress of 1866. These have long been disputed questions. They are now before the Supreme Court. They ought to be finally settled by judicial decision. If the Government's position is sustained, then, of course, the Western Union can not lawfully land its cable. If the Government's position is not sustained, then the Western Union has acted entirely within its legal rights. I am not particularly concerned with that question now.

I am discussing this bill now on fundamental grounds. I am opposed to Congress disposing of any more of the duties and powers that are conferred upon it by the fundamental law of the land. I have been criticized back in Illinois because Congress has in recent years conferred upon the President so many of its powers. I defended our actions here for the last three years upon the ground that we were at war and that it was necessary to confer these extraordinary powers upon the President in a time of emergency. I went over my district

during the last campaign and defended my action in voting to confer these extraordinary powers upon the President during the war, but at the same time I told the people of my district that since peace has been restored and there are no emergencies jeopardizing our national security, I would not again vote to confer upon the President or anybody else the constitutional powers that belong to Congress itself.

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

Mr. DENISON. Yes.

Mr. WEBSTER. Does the gentleman contend for the principle that the Congress itself shall exercise this power in each case, and if any cable company attempts to land upon our shores, that before we could interfere with it somebody must come to Congress and get a special bill passed?

Mr. DENISON. My position is that before any cable company should be allowed to land upon our shores it should first have to come to Congress for permission to do so, and I am going to tell the gentleman where I have very splendid authority for the position that I take. I want to call the attention of the House to a great change in the tendency of our times. In 1896 a French cable company wanted to land upon the coast of Massachusetts, as I understand it. This old question arose as to whether or not they had to have a permit from the President before they could do so.

The administration held, Mr. Gresham being Secretary of State, that there was no authority in the President under our Constitution, in the absence of legislation by Congress, to say whether or not a cable company should or should not land. That was the holding of that administration. The question attracted public attention and came to Congress. A bill was introduced covering the subject, and I am going to read you the bill, because I want the Members of the House to know how the House of Representatives and the Senate looked upon this question at that time. Here is the bill which was brought into the House with a unanimous report of the Committee on Interstate and Foreign Commerce, and, as I understand it, was brought into the Senate with a unanimous report of the Committee on Commerce of that body.

Mr. BANKHEAD. Did it pass?

Mr. DENISON. The bill passed the House, but it did not pass the Senate, as the matter was otherwise disposed of; but it shows the attitude of the Congress at that time. The bill reads as follows:

*Be it enacted, etc.*, That the shore end of any new submarine telegraphic cable line or system that shall be established after the passage of this act, which line or system shall be protected in any foreign country by exclusive landing rights or by any other special privileges or franchises, shall not be permitted to land or operate on the territory of the United States until the consent of the Congress of the United States shall have been obtained therefor. But this prohibition shall not apply to the renewal or renewals of any submarine telegraphic cable or cables now in operation.

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

Mr. DENISON. Yes.

Mr. WINSLOW. Will the gentleman kindly state the date of that bill and what were the causes that impelled its passage?

Mr. DENISON. A French cable company wanted to land on the shores of Massachusetts, as I remember it. The question of obtaining a permit to do so came before the President, and the Secretary of State at that time held that there was no law under which the President had any authority to either give or deny the permit. So the matter came into Congress. That was in 1896.

It may be of interest to read briefly an extract from a Senate report on that bill.

The report said:

For these reasons it seems desirable, in view of the great increase of cable business, that the methods by which permission is to be hereafter obtained to land and operate any cable, whether American or foreign, should be established by Congress.

The circumstances and conditions surrounding, as well as the character of these projects for laying a submarine cable, must of necessity be peculiar to itself, and any general law enacted would undoubtedly fall far short of covering all such projects so as to place them on an equal commercial footing or of fully protecting the public from unjust discriminations.

Your committee are of opinion that each cable company, whether American or foreign, should be required to apply to Congress for permission to land and operate any cable that may be laid subsequent to the approval of this bill. That requirement will give ample opportunity to Congress to ascertain whether the project is inimical to invested American capital and the business that has been established thereby, and to so regulate the conditions under which permission shall be granted on each application as to insure the best service to the general public for this most essential means of communication between the United States and the outside world.

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

Mr. DENISON. Yes.

Mr. HUSTED. Is it the gentleman's understanding that under this bill the President may grant a license practically,

to any company he chooses or refuse a license to practically any company he chooses?

Mr. DENISON. He can.

Mr. HUSTED. Is the gentleman's objection to the bill grounded upon the fact that it is an illegal delegation of authority or merely an unwise delegation of authority, or both?

Mr. DENISON. My objection to the bill is that in my judgment it is subject to both of the objections stated.

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

Mr. DENISON. Yes.

Mr. KINCHELOE. As I understand the gentleman, he is in favor of temporary legislation that will protect the Government in case the Supreme Court decides favorably to the Western Union.

Mr. DENISON. Yes.

Mr. KINCHELOE. But is opposed to this bill as permanent law?

Mr. DENISON. Yes.

Mr. KINCHELOE. Under that state of facts the only alternative that we have in voting is either to vote for this bill or to take the chances of the Government suffering if the Supreme Court decides for the telegraph company. In other words, the situation which the gentleman is advocating is not before us.

Mr. DENISON. I can not help that situation. Of course, I do not think the Government is going to suffer at all in any case.

Mr. KINCHELOE. If we fail to enact any legislation at all, and we have to enact this or none, and the Supreme Court decides favorably to the Western Union, why will not the Government suffer?

Mr. DENISON. I do not think the Government will suffer at all. Private interests may suffer because of advantages gained by their competitors. But the Government has no interests that will suffer in the least.

Mr. KINCHELOE. Then what is the need of any legislation?

Mr. DENISON. It must be left to the gentlemen who are advocating this bill to show the need for the legislation. The only need that I can see is that if the Government loses its contention, then the Western Union Co. can land its cable and begin sending commercial messages to and from Brazil in competition with another cable company. Congress can enact legislation at any time that will regulate it after it has landed, so that there is no emergency, in my judgment, or any very serious need for this legislation now.

Mr. KINCHELOE. What emergency did the gentleman have reference to when he said that he would be willing to vote for emergency legislation?

Mr. DENISON. It is the one I have just mentioned; some may call it an emergency to let this American company land its cable without a permit from the State Department; that is all the emergency there is, so far as I can see.

Mr. DAVIS of Tennessee. Will the gentleman yield?

Mr. DENISON. I will.

Mr. DAVIS of Tennessee. Is it not a fact that the policy embodied in this bill is exactly in accord with the policy of the act that the Congress passed, almost without opposition, lodging with the Secretary of Commerce the authority to license radio companies and prohibiting anybody from engaging in the radio business without having such a license?

Mr. DENISON. I am not familiar with that act.

Mr. DAVIS of Tennessee. There is such a law that the Congress passed.

Mr. DENISON. I do not know what the regulations are as provided for in that act.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. DENISON. I will.

Mr. NEWTON of Minnesota. The gentleman has stated that he believed in meeting this emergency with a specific offer of legislation—

Mr. DENISON. What specific offer of legislation?

Mr. NEWTON of Minnesota. Something along the line of the bill which passed the House some years ago, and which the gentleman has read.

Mr. DENISON. Yes.

Mr. NEWTON of Minnesota. But does the gentleman think that particular bill, if it passed the House, will meet this emergency?

Mr. DENISON. I certainly do.

Mr. NEWTON of Minnesota. Until it could be passed by both Houses and be approved by the President and become a law, with a Supreme Court decision, that would be favorable to the company it would be only a matter of hours before the cable was landed; and here is an entirely different bill and an entirely different policy, and does not the gentleman think that it would

be a matter of a good many weeks and possibly months before the differences between the House and Senate might be reconciled?

Mr. DENISON. No; I do not think so. I think if there is really an emergency, as some seem to think there is, the emergency would appeal to the Senate just as much as to the House, and they could pass that kind of a bill just as quickly as this. This bill will have to go back to the Senate and differences will have to be adjusted.

Mr. NEWTON of Minnesota. Is not this designed more quickly to meet the emergency?

Mr. DENISON. I understand it is so designed, but it does not meet the situation any more quickly than would such a bill as the one which passed the House in 1896.

I have read what the Senate thought on that proposition in 1896, and I now read from the House report which accompanied the bill that passed the House:

It is therefore desirable that the method by which permission is to be obtained to land and operate any future cables, either American or foreign, should be established or well defined. The circumstances surrounding and the character of each project for laying a submarine cable are likely to be peculiar to itself, and any general conditions which might be established would fall far short of covering all of such projects so as to place them all on an equal commercial footing.

The object of this bill, therefore, is to require each company, whether American or foreign, to apply to Congress for permission to land or to operate any cable that may be laid subsequent to its approval. That procedure will give ample opportunity to the Government and to the Congress to ascertain whether the project is inimical to invested American capital, and the business that has been established thereby, and to so regulate the conditions under which permission shall be granted on each application as to insure the best service to the general public for this most essential means of communication between the United States and the outside world.

Mr. CHALMERS. If the gentleman will permit, I just want to state that the gentleman from Kentucky stated my position clearly. I would be willing to vote in favor of that bill of 1896, but unless there is some such adequate measure offered now I shall have to vote for this bill.

Mr. DENISON. Well—

Mr. BANKHEAD. If the gentleman will permit, is this the only instance in which the cable company has landed where a license was not obtained from the Executive?

Mr. DENISON. No; there are a good many cables now operating in the United States without any license at all.

Mr. BANKHEAD. This bill provides that any such cable now laid within the United States without a license granted by the President may continue to operate without such license for a period of 90 days from the date this act takes effect. The passage of this bill will effect the rights of other companies whose cables are already laid in this country?

Mr. DENISON. If we pass this bill as reported here the President will have the power to refuse to grant a permit to any company now operating in this country, and if such company continues to operate its cable without a permit after 90 days from the passage of this act its officers will be liable to a fine of \$5,000 and to imprisonment for not more than a year.

Mr. JONES of Texas. What is the purpose of that?

Mr. DENISON. The gentleman will have to ask those in favor of the legislation to explain that; I will not have the time. That is one reason for my opposition to the bill.

Now, I have presented in these two reports on the bill of 1896 the view that the House and Senate took of their duty in connection with this question at that time, namely, in 1896. In that day the statesmen thought that Congress ought to itself function and ought to itself exercise its constitutional power of regulating foreign commerce and passing on requests for landing cables on our shores whenever such requests were made.

Now, every time a railroad company wants to build a bridge across a navigable river they have to come to the Congress for a permit to do that; but this bill transfers from the Congress to the Executive this constitutional power that the fathers placed exclusively in our hands. It just simply shows, gentlemen of the House, the tendency of our times. As far back as 1896 the statesmen of the country thought that Congress itself ought to exercise the constitutional powers given to it; but in these days the tendency is for Congress to pass the buck and get rid of the duties and the responsibilities which were conferred upon it by the Constitution; in these days the tendency of Congress seems to be to transfer to some one else all its constitutional functions except those of raising revenue and making appropriations. So we are creating commissions and bureaus until the cost of conducting our Government has become almost unbearable, and it is due largely to the fact that the legislative body is constantly by legislation of this kind transferring its own constitutional functions to the Executive, who has to perform them through bureaus and commissions.

In my humble opinion, the quicker Congress comes to a full realization of its own constitutional powers and responsibilities

and limitations, and the sooner Congress stops delegating those powers and duties to the President and to commissions and boards and bureaus, the better it will be for the welfare of the Republic.

Mr. OLIVER. Will the gentleman yield?

Mr. DENISON. I will.

Mr. OLIVER. The gentleman is in favor of legislation prohibiting the landing or operating of cables without application being first made to Congress and favorable action thereon?

Mr. DENISON. I am.

Mr. OLIVER. Now, this bill could be so amended as to meet the objections the gentleman points out of enacting the prohibitive section, which is section 1, and giving to the President authority, pending final action by Congress on applications, to grant permits.

Mr. DENISON. It could be so amended.

Mr. OLIVER. That would meet all the objections the gentleman has advanced.

Mr. DENISON. As I stated a moment ago, in view of the fact some think there is an emergency here, I would be in favor of passing a law that would continue in effect 60 or 90 days and stop the landing of the Western Union cable until appropriate legislation could be enacted; but I could not have my way about it, and I am simply addressing my remarks to the bill as the committee reported it.

Mr. MOORES of Indiana. Will the gentleman yield for a hypothetical question?

Mr. DENISON. Yes.

Mr. MOORES of Indiana. It will be a very brief one. It is conceivable that we might be in trouble with a nation, let us say Korea or China, and that that nation might be unfriendly to us. Owning a cable to Vancouver or Victoria, at a time when Congress was not in session; if it should undertake to lay a line between, let us say, Victoria and Seattle, could not that line be put in before Congress could be called together?

Mr. DENISON. The law being that they could not put it in without the consent of Congress, all the President would have to do would be to send the Navy there and stop it, because they would be doing an unlawful act.

Mr. MOORES of Indiana. But, if the Supreme Court in the pending case should hold they could not do it—

Mr. DENISON. But I am advocating legislation requiring the consent of Congress to lay the cable, and if that was the law then no company could lay a cable on our shores without an act of Congress permitting them to do so. That is what we ought to do. In other words, I say that that is a legislative function under the Constitution. The power to regulate commerce with foreign nations is conferred on Congress, and Congress ought not to transfer it to the Executive or to anybody else, but ought to pass a law specifying plainly that no cable shall be laid connecting our country with a foreign country without the consent of Congress.

Mr. KINCHELOE. Has the gentleman prepared an amendment, or a motion to recommit, that will meet his views on this matter?

Mr. DENISON. I have not. I presented my views to the committee and the committee did not accept them, and I am now simply stating the reasons why I can not vote for this bill.

Mr. WEBSTER. Will the gentleman yield?

Mr. DENISON. I yield.

Mr. WEBSTER. I understood the gentleman to say that he is opposed to the principle that the congressional power should not be delegated to the Executive or anybody else. On what basis does the gentleman justify the conferring of power on the Interstate Commerce Commission to regulate our domestic commerce?

Mr. DENISON. Congress has completely regulated the powers of the Interstate Commerce Commission by legislation. We enacted comprehensive legislation regulating interstate commerce and created the Interstate Commerce Commission to administer that legislation. Would anybody in Congress have voted to give the Interstate Commerce Commission absolute power to control commerce between the States without any regulation or limitation whatever by legislation? Certainly we would not have done that. And therefore I am not in favor of giving the President this unlimited power.

Mr. HUSTED. Will the gentleman yield?

Mr. DENISON. I yield.

Mr. HUSTED. I am quite in sympathy with the gentleman's position that this bill in its present form is an illegal delegation of congressional authority. I can not reconcile the gentleman's position, however. The gentleman says he is opposed to permanent legislation of this character, but is in favor of emergency legislation. If opposed to permanent legislation, how could he favor emergency legislation to this same effect?

Mr. DENISON. I did not say I was opposed to permanent legislation on this subject, but I am opposed to this bill as permanent legislation.

Mr. HUSTED. I am presupposing a bill drawn along this line.

Mr. DENISON. I am opposed to it as permanent legislation because I am opposed to the policy.

Mr. HARDY of Texas. Will the gentleman yield?

Mr. DENISON. I will yield.

Mr. HARDY of Texas. Is not the gentleman leaving the House in a position that does not exactly seem equitable when he presents a view, which is very forcibly presented and very persuasive, and yet declines to offer an amendment to the bill conforming to his view?

Mr. DENISON. Well, I think there is something in what the gentleman states, yet I do not know just what I ought to do. As a member of the committee, I can not disclose discussions that took place in the committee. I am not trying to defeat this bill. I simply wanted to explain my vote against it and present my views, and am taxing the patience of the House in so doing no doubt.

Mr. HARDY of Texas. You are not taxing my patience, but I believe it is a little unfair to the House to convince us that your position is right, and then give us no alternative between passing this bill and permitting a company, through the decision of the Supreme Court, to perfect something Congress would not want done; in other words, to unite a British monopoly to our shores with an American company. That is the substance of it, as I understand it.

Mr. DENISON. It is allowing a British company to connect with our shores through an American company. But while it does that you have got to look at it from both ends. It also allows an American cable company to break through a British monopoly in Brazil and go into every part of Brazil and connect American commercial interests with the business interests of that great country. If the Western Union is allowed to carry out its project, it breaks the British monopoly in Brazil, although its competitor, the all-American company, may suffer a loss of part of its South American business as a result.

Mr. HARDY of Texas. If a bill is passed in conformity with your views, that would be an equal restraint on that company in this bill?

Mr. DENISON. Yes. I think there ought to be legislation on this subject, and I think Congress ought to itself function and retain control over it; and when any cable companies desire to come to this country they ought not to be permitted to land until Congress has by special act said whether they shall or shall not have the right to do so.

Mr. GARRETT of Tennessee. Will the gentleman yield?

Mr. DENISON. I will.

Mr. GARRETT of Tennessee. I would like to see if I understand the gentleman's position. He would favor legislation in each particular instance wherein it was desired by a cable company to land upon our shores, just as now required, as the gentleman pointed out with a great deal of force, in the case of building a bridge across a navigable stream, where we pass a bill every time such a request is made?

Mr. DENISON. Exactly. That is my view.

Now, I am going to state briefly some other objections to this bill. I am opposed to it for this reason: You will notice in section 1 it provides that "no person shall land or operate in the United States any submarine cable," and so forth, so that it applies to cables that are and have been here perhaps for 20 or 30 years and that they can not continue operating without a permit from the President.

It provides that any such cable now laid within the United States without a license granted by the President may continue to operate without such license for a period of 90 days from the date when this act takes effect. In other words, there are comparatively few cables that are now operating by presidential permit. There are others that are operating by special acts of Congress. There are a number of cables that are operating by special acts of Congress. There are others that have been laid under the so-called post roads act passed by Congress in 1866. So that most of the cables that are now operating in this country have no presidential permit. Yet every one of them, if we pass this law, will have to apply to the President for a permit to operate, and if they do not get it within 90 days, then after that time they can not send a message or do a thing without committing a crime for which they may be sent to the penitentiary for a year or fined not to exceed \$5,000.

Mr. HOCH. Mr. Speaker, will the gentleman yield right there on that point?

Mr. DENISON. Yes.

Mr. HOCH. If we are to have a license system at all, does not the gentleman think that all cable companies should be compelled to submit to the same conditions? Would not that be done under the bill you suggest by congressional grant? If certain companies have come in without conditions attached, does not the gentleman think they should be compelled to comply with conditions?

Mr. DENISON. No. I think where a cable company has already landed and is operating by special act of Congress it should be allowed to go ahead and transact its business, and not be subjected to the danger of having its permit canceled, unless it be for some unlawful act that it does or something that it fails to do. In other words, let them go ahead and operate, unless they do something that will justify the cancellation of their permit.

Now, then, my next objection is—

Mr. HARDY of Texas. Mr. Speaker, will the gentleman yield right at that point?

Mr. DENISON. Yes.

Mr. HARDY of Texas. The remarks of the gentleman just made seem to be very cogent. The gentleman has studied this question more than the rest of us. We are novices. Does not the gentleman think that fairness to the House would require him to prepare an amendment such as he thinks ought to be prepared to meet this emergency?

Mr. DENISON. Well, the gentleman asks a question that I can not very well answer.

Mr. HARDY of Texas. I would not want to prepare an amendment to carry into effect the views of the gentleman, which the gentleman has just stated after much study, and yet the gentleman's views coincide with mine.

Mr. DENISON. I would be glad to have the gentleman offer an amendment, although I do not care to offer one myself.

Now, I call the attention of the House to the second section of the bill. Here is where the President is given such extraordinary power. It provides as follows:

That the President may withhold or revoke such license when he shall be satisfied, after due notice and hearing, that such action will assist in securing rights for the landing or operation of foreign cables in foreign countries or in maintaining the rights or interests of the United States or of its citizens in foreign countries—

And so forth.

Now, he is not only given power by this language to withhold a license where one is applied for, but he is also given power to revoke the license of any company that is licensed to operate in this country when he is satisfied of certain things. Here is what they are: First, That such action will assist in securing rights for the landing or operation of cables in foreign countries.

Now, that is not limited to this particular company, so that if we pass this bill in this form, here is what the President can do: He can say to the Western Union Co., "I desire to revoke your permit to do business because you connect up in some way with some foreign country"—perhaps Japan or some European country—and that country will not treat our other American companies right, and therefore we will not let you do business in this country."

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

Mr. DENISON. Yes.

Mr. HUSTED. Some gentleman said that if the powers delegated to the Interstate Commerce Commission were legal, then the powers delegated in this bill are legal. Now, in order to draw fair comparison would it not be about this: If you conferred upon the Interstate Commerce Commission the power to say that the New York Central could not run, that the Pennsylvania could not run, that the Southern Railway could run under certain conditions, that the Delaware, Lackawanna & Western should not run except under certain conditions, then you would be delegating a power similar to the powers that are delegated here, and therefore I contend that nobody would say that such powers could be legally delegated.

Mr. DENISON. Yes; the gentleman is exactly correct. I was going to come to that. The Interstate Commerce Commission could stop the operation of any interstate railroad if the commission thought that some State through which that railroad ran was enacting a law that was not just to other railroads. But would anybody vote for such a law as that? Yet in this bill you are conferring upon the President the power to cancel the right of any cable company to operate whenever, in the first place, he shall be satisfied that such action will assist in securing rights for the landing and operation of cables in foreign countries.

Now, the next instance is this: The President can revoke the license of a company whenever he shall be satisfied, second, that such action will assist in maintaining the rights or interests of the United States or of its citizens in foreign coun-

tries." Whenever the President thinks that by canceling the permit of a cable company to operate he can assist in securing the rights or interests of American citizens in some foreign country, he can cancel their rights to do business in this country.

In other words, suppose we had an American cable connecting this country with Japan. It might be that it has had this permit for years, and is doing a successful business; and yet the President may conclude that we may have some people who are interested in a mine in Japan whose interests are not being properly protected there, and therefore he will simply try to protect those interests by canceling the permit of this cable company to do business. That will not do.

That is absolutely in my judgment illegal, and if it is not illegal it is in my judgment immoral. It is not right to confer such a power on the President, authorizing him to destroy a business that may be perfectly straight and honest, a concern that may have had the right to do business for years, in order to promote the interests of other citizens who have no connection at all with cables in some other country. What do you think of that?

Mr. DEMPSEY. And where the company has committed no offense.

Mr. DENISON. Yes; the right to cancel a permit is entirely outside of anything the company may have done or not done. It gives to the President an arbitrary power, which he can use whenever in his judgment he thinks he can accomplish some ulterior purpose—

Mr. GRAHAM of Illinois. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. GRAHAM of Illinois. If a ship company having docks in this country were operating a line of carriers across the Atlantic, would the gentleman say that it ought to be within the power of anybody to cancel the permit of that company even if it had vested rights, when it was necessary for the welfare of the country?

Mr. DENISON. Well, the gentleman says "the welfare of the country." Who would say when it was necessary for the welfare of the country?

Mr. GRAHAM of Illinois. That is all this bill is.

Mr. DENISON. Who would say when it is for the welfare of the country? That is but one of the minor provisions of this bill.

Mr. GRAHAM of Illinois. The President.

Mr. DEMPSEY. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. DEMPSEY. Has the gentleman ever heard of vested property interests being destroyed by summary action of the Executive without any hearing, without any trial, without any legal process, absolutely at his say so, because he believes that they should be destroyed?

Mr. GRAHAM of Illinois. I do not want to take the time of the gentleman from Illinois, but I want to say that if Congress could do it they would do it that same way.

Mr. DEMPSEY. Oh, no.

Mr. GRAHAM of Illinois. Does the gentleman believe that by the prohibition act, or by the constitutional amendment, we had the right to destroy vested property in breweries and distilleries all over the United States?

Mr. DENISON. Mr. Speaker, I shall not have time in the hour allotted me to discuss that question. [Laughter.] If my colleague from Illinois does not recognize the difference between legislation or a constitutional amendment affecting intoxicating liquors and legislation conferring upon the President the power to arbitrarily destroy the property of cable companies, operating under special act of Congress or under general legislation of Congress, I can not in the short time I have explain the difference so he would understand it.

I am opposed to the bill for the further reason that in my humble judgment it authorizes the President, in effect, to destroy property belonging to private individuals without due process and with no provision for compensation. I know there is room for difference of opinion among lawyers in regard to that. I have read the decisions and I can not get it out of my mind that we are authorizing the taking of private property without due process and without any provision for compensation. To that extent it is very doubtful whether this legislation will be held to be legal or in accordance with the protection and guarantees of the Constitution.

But, aside from that question, even if we can do it constitutionally, I do not think Congress itself ought to authorize anyone to destroy property rights without due process and without making compensation, as can be done under the provisions of this bill. In other words, the right of a cable company to do business when its operation has been perfectly lawful,

amounts to property of great value. Hundreds of millions of dollars have been invested in this business, and I do not think Congress ought to confer upon the President the power to act arbitrarily and injure or destroy those rights when the companies may not have done anything or failed to do anything. I do not think the President or anyone else ought to have that right in order to accomplish some other purpose, such as protecting the rights of somebody else in some other country.

Mr. JONES of Texas. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. JONES of Texas. Could not this matter be covered by general legislation which would apply to all cable companies, and require them to comply with the conditions before they entered any ports?

Mr. DENISON. That was done once. That is one of the contentions of the Western Union Co. In the post roads act of July 21, 1866, there was this provision:

Any telegraph company now organized, or which may hereafter be organized, under the laws of any State, shall have the right to construct, maintain, and operate lines of telegraph through and over any portion of the public domain of the United States, over and along any of the military or post roads of the United States which have been or may hereafter be declared such by law, and over, under, or across the navigable streams or waters of the United States; but such lines of telegraph shall be so constructed and maintained as not to obstruct the navigation of such streams and waters, or interfere with the ordinary travel on such military or post roads.

Now, the Supreme Court in construing that held that the word "waters" includes the 3-mile limit in the ocean, and therefore the Western Union has contended that under that general act they had the right to lay their cables through the waters out to the 3-mile limit.

Mr. MADDEN. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. MADDEN. Of course, that law applied only to business transacted in the United States. The bill before the House is for business transacted throughout the world.

Mr. DENISON. This post roads act simply gives general authority to lay telegraph lines over and under the waters of the United States.

Mr. MADDEN. The bill that the gentleman has read the provision from has nothing to do with cable messages, but to the telegraph system within continental America.

Mr. DENISON. The Supreme Court has held that it applies to cables as well as to telegraph lines. That is one of the questions now before the Supreme Court. Of course, I do not know how the court is going to construe it, but, at any rate, a number of cables have been lauded under authority of that law and are now being operated under that authority, and the question whether they can continue is before the Supreme Court now. It may be that the court will hold that it does not apply to this case.

Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore (Mr. WALSH). The gentleman has six minutes remaining.

Mr. DENISON. Mr. Speaker, I am opposed to the general policy of this bill. I believe Congress ought to itself retain and exercise the powers it will confer upon the President by this bill. I think other provisions of the bill, to which I have not had time to allude, are unfair and unwise. I would support a bill that would prohibit any cable from being lauded on our shores and connecting with any foreign country without the express consent of Congress and upon such terms as Congress might desire to impose.

Mr. Speaker, I yield six minutes to the gentleman from New York [Mr. DEMPSEY].

Mr. DEMPSEY. Mr. Speaker, this bill confers a naked and arbitrary authority on the President to prevent the landing of cables and to revoke the rights of all companies which are at present doing business in the United States. We have had a similar bill before this Congress recently, a bill which dealt with similar rights, providing for those rights, and that is the general water power bill. It is well that we should examine that bill and see what Congress did in dealing with a subject of this kind. The rights are precisely similar; in one case it deals with inland waters and in the other with the waters of the ocean. It is simply dealing with the rights of waters which are navigable, and that is all there is to it.

Mr. HUSTED. Will the gentleman yield?

Mr. DEMPSEY. Yes.

Mr. HUSTED. The Constitution makes absolutely no distinction in the matter of regulating commerce between the States or foreign nations; it all comes in under the same provision of the Constitution, and the same power applies equally to each.

Mr. DEMPSEY. That is a very helpful suggestion. If the gentlemen will turn to the general water power bill, they will

find that instead of dealing in this offhand way with the matter, instead of the drastic and arbitrary provisions of this bill, all necessary and appropriate provisions were inserted. Let us see what those provisions were, what the situation here is, and what we are threatened with.

The charge is freely made that this is a contest between two companies, and that this bill is to leave the decision to be made privately, behind closed doors, without hearings, without publicity, without all of the things that safeguard the Executive and save and prevent scandal. Let us see what was done in the general water power bill, dealing with a subject of this kind. First, a written application must be made to the three Secretaries who have control. Immediately upon the filing of that application a public notice is required to be given through the press, and then the applicant has to do certain things. He must begin the construction of his work within a stated time, while the President under this bill could grant a license without limit as to time, a license for all time, and there would be no compulsion upon the part of the applicant to even begin his work. One company, therefore, that wanted to prevent competition, could very readily obtain a license and then never do anything about it. Next, in addition to beginning the work, under the general water power bill the applicant is compelled to complete the project within a certain time. Besides, in order to insure a permit, the applicant must submit himself to regulation either by the public service commission of the State in which he operates or by the Interstate Commerce Commission as to rates, so that the rates shall be just and equal and shall be controlled by a commission which has supervision of matters of that kind and is familiar with them and can deal with them intelligently and adequately. No such provision is made here. It is all left to the arbitrary, unguided action of the Chief Executive, who has no time to devote to any such purposes.

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

Mr. DEMPSEY. Yes.

Mr. CHINDBLOM. What Cabinet officer would this come under, in all probability?

Mr. DEMPSEY. I would say that the commission should be formed as in the case of the general water power—

Mr. CHINDBLOM. No; I mean now as the bill stands.

Mr. DEMPSEY. Probably the Secretary of State.

Mr. CHINDBLOM. Of course, the President would have to refer it to somebody.

Mr. DEMPSEY. There is no provision in the bill for referring it to anybody. We can simply guess at what might be done, without direction that anything shall be done, and one man's guess is just as good as another man's guess, and it has no basis whatever in this legislation. Go through the water power bill and you find page after page protecting those who apply for the license, protecting the Government, protecting the consumers, protecting those who use the water power, protecting them in the minutest details, making it all subject to publicity, making it all subject to established rules and regulations, and providing for every contingency in so fair a way that men who are to invest their millions of money are able, with abundant and adequate information, to know just what they are going to do, how they can do it, and how long they are going to be permitted to do it. All of those things, each and every one, are lacking in this bill. It is easy enough to point out, you say, what should be done, but you do not propose a remedy. I propose a remedy, and that is to send this bill back to the committee and permit them, in the light of the general water power bill, which furnishes an exact course to be followed, to produce such a bill as will meet the situation.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. WINSLOW. Mr. Speaker, I yield 10 minutes to the gentleman from Missouri [Mr. HAWES].

Mr. HAWES. Mr. Speaker, I am impressed with the idea that the two last speakers had their minds concentrated on a domestic situation. This question is essentially one for the State Department, as our foreign relations exceed in importance other considerations.

The Western Union Telegraph Co. contracted with the Western Telegraph Co., a British concern which has a monopoly of interport communications in Brazil, to connect the United States by cable with Brazil by way of Barbados; the English end to be from Brazil to the Barbados, and the American end from Miami Beach, Fla., to the Barbados.

The Secretary of State, pending negotiations then in progress, refused to issue a license to the Western Union to land on the Miami Beach.

This company attempted to land without such license and was prevented from doing so by an American warship. This at

tempted landing was a violation of American tradition and the established policy of the Presidents of the United States from Grant to Harding. So that back of the destroyer that watches the 3 mile limit off the coast of Florida, there are 50 years of American precedent proclaiming the power of the President to license or withhold license for cable landing.

This power is exercised and watched with zealous care by all the great nations of the world, and is by them exercised for the benefit of the great foreign nations not only in matters of government but in matters of news communication and trade.

For illustration: England has a restricted policy regarding the landing of cables on her shores. She demands the control over international rates and, where formerly her permits were for 31 years, they are now limited to five years.

France and Japan have similar restrictions and regulations. There is but one broad question involved in this bill, Shall a private citizen or a corporation dictate or obstruct the foreign policy of this Government, or shall it be directed by the President, through our Secretary of State or some other agency selected by him?

The last Secretary of State, following the almost unbroken precedents of his predecessors, exercised this power and brought on this controversy, and the present Secretary of State demands that the power shall be retained and so clearly expressed by Congress that it will never be disputed.

Congress has the right to exercise this power, but it must be delegated for execution to the Executive or some commission created by act of Congress.

I am therefore disappointed that the distinguished gentleman from Illinois [Mr. DENISON], in his objections to this bill, did not point out the proper depository for the power that we know should be exercised.

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

Mr. HAWES. Yes.

Mr. DEMPSEY. Why could not a commission composed of, say, three Secretaries exercise this power under practically the terms adopted by the Congress in both branches in the general water power bill, and why is not that absolutely in point, and why would it not answer the purpose which the gentleman is raising in every way?

Mr. HAWES. The gentleman asks a question that the Western Union asked of our committee.

Mr. DEMPSEY. But I did not get my question from the Western Union.

Mr. HAWES. This is a power that Congress may exercise, but if Congress delegates this power it must be to that branch of the Government which is in direct diplomatic conversation with the foreign nations of the world.

Mr. DEMPSEY. Oh, yes; the Secretary of State I suggested.

Mr. HAWES. If the gentleman suggests that the power should be vested, as the Western Union suggested, in the Postmaster General, the Secretary of State, and the Secretary of Commerce, there would seem to be no objection, but it would be a power delegated by this Congress to some other agency to exercise, and the wisdom of our committee was that the power could be exercised by the President, and he could, if he wished, call to his assistance the Secretary of State, the Postmaster General, and the Secretary of Commerce.

As the Executive now conducts our intercourse with foreign nations and—subject to congressional check—directs our foreign policy, there can be but little dispute as to where the power should be lodged.

Where a Government function can be performed by the State upon the fundamental question of local self-government, I shall vote to retain the exercise of that power in the State.

Where a Government function can be controlled by Congress, I shall vote to retain that power in the hands of Congress.

Mr. HUSTED. Will the gentleman yield?

Mr. HAWES. Yes, sir.

Mr. HUSTED. Does the gentleman happen to know whether this bill in its present form has been approved by the present Secretary of State?

Mr. HAWES. I do.

Mr. HUSTED. It has been?

Mr. HAWES. It has been approved. I consider this an administration measure, and as a Democrat it gives me great pleasure vigorously to support it, because I may disagree on other matters. [Applause.]

Where a question arises as to extending the power of the Executive, I should lean toward its retention by Congress. But where the exercise of the power is one that clearly does not belong to the State and must be delegated by Congress, its proper depository is in the Executive. And where the executive power which it seemed to possess by tradition and precedent is questioned by a private corporation, it then clearly

becomes the duty of Congress to without delay settle all uncertainty and place the power with the President in a manner which can not be disputed.

In the present controversy the dignity of the State Department must be preserved, and in its transactions with foreign nations it can not successfully conduct the affairs of our people when its authority is questioned, its warning ignored, or its ruling set aside by an American citizen or an American corporation.

Mr. DENISON. Will the gentleman yield?

Mr. HAWES. I hope those who have charge of time will let me finish my speech. However, I yield.

Mr. DENISON. I was simply going to suggest to the gentleman from Missouri, if this properly belongs to the Department of State, then Congress can not deprive it of it; they still have it, because if it properly belongs to it the Congress can not by its action take it away from it.

Mr. HAWES. The gentleman is familiar with the history of this case, which is that for 50 years the Executive has asserted that he possessed this power, and it has not been disputed by any foreign nation or by another branch of the Government, and is now for the first time disputed by a private corporation.

If there is haste upon the part of private enterprise, may we not presume that that haste is no greater or of more compelling need than that of a great National Government?

If we are in doubt upon the subject, is it not wise to decide that doubt in favor of the Government?

When this law passes, all American citizens and foreign nations can have a hearing before a proper officer, who, while considering the contentions of private enterprise, can also give thought to the benefits which will accrue to all the American people.

If he exercises this power arbitrarily, wrongly, or unfairly, Congress can in future legislation correct the wrong and provide the remedy.

If this undisputed authority gives to the President the power of trade by an appeal to international comity, he will be in a legal position to do so.

If he desires to secure cable communications upon which no foreign power can "listen in," so that we can safely discuss affairs of state with officers abroad, he can do so. If he wants to break a British monopoly in a friendly nation in the interests of American enterprise, he will have some power with which to act.

With this power the Executive can trade and also, upon occasion, retaliate.

The SPEAKER. The time of the gentleman has expired.

Mr. HAWES. I have been interrupted so frequently that I have hardly started my speech.

Mr. BARKLEY. Mr. Speaker, I hope to get recognition in my own right later, and if the gentleman from Massachusetts desires me to yield to the gentleman, I will yield five minutes of my time.

Mr. WINSLOW. If agreeable, I will yield the gentleman five additional minutes.

The SPEAKER. The gentleman is recognized for five additional minutes.

Mr. HAWES. During the early part of the war the immense German cable service was cut by our English, French, and Japanese allies, and this cable service has not yet been restored to Germany and probably will not be restored at the present time. England has taken over a portion of it, France another portion, and Japan still another portion.

It would seem that the United States had at least an equity in the old German service, and this power given to the Executive carries with it an implication that it may be used to secure our share of the former German cable service.

Germany had two cables from Long Island via the Azores to Emden, Germany. These were cut in the English Channel and one landed in France and the other in England. Later the French Government operated one of these cables, and their final disposition has not been settled.

The German Dutch cable seized by the Japanese is now held by them through their control of the island of Yap. In diplomatic language, the least that can be said of these vast cable communications is that their ownership is still in controversy.

To what use the old German cables will be put is a subject all by itself and requires mention, not discussion, at this time.

This power to withhold, issue, or revoke cable licenses carries with it the unmistakable right to secure for us an equity in the German cables in both the Atlantic and the Pacific. But, in addition, it gives to the Executive an undisputed right to negotiate and trade for equal rights and privileges for our own citizens in foreign countries by controlling the American end of all cables reaching our country.

The controversy, therefore, between the Western Union and the All-American Co., by directing our attention to this matter, will ultimately force a consideration of matters relating to cable control and regulation.

Transportation by rail, highway, water, and wire are all matters that have a public aspect and can therefore not be left for decision exclusively to the private person or corporation.

To the south we find many republics formed upon the plan of our own. Their call of friendship and trade reaches us with compelling voice. Our trade competitors have the support of their Governments in the strong rivalry which exists, of cordial intercourse and exchange of products.

Our citizens must be placed upon a parity and given equal opportunity with the citizens of any other nation, and must have back of them an energetic, cooperating Government influence to hold their own with the citizens of competing nations.

The right of visé, by which the sender of a message can regulate the route of delivery, should not be impaired.

Our shippers of freight in this country now have that right and it should be given in undisputed form to the sender of a message.

We must demand from foreign cable service at least the same consideration that they receive in the United States.

While the cable may be said to have originated in the United States, England now has almost a monopoly of the world's business; and, in addition, because of the skill of her workmen, has a monopoly of the manufacture of cables.

The SPEAKER. The time of the gentleman has again expired.

Mr. DENISON. Mr. Speaker, I ask unanimous consent that the gentleman may be permitted to extend his remarks in the Record.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? [After a pause.] The Chair hears none.

Mr. HAWES. The United States should have a direct cable with every important center in the world. Both in times of peace and war our Government should have the means of rapid communication with its agents throughout the world, uninterrupted by the agents of any foreign power, and it can only have such service if the power of control of American cables is in the hands of the Executive.

Private and Government ciphers offer some protection in the matter of maintaining secrecy of confidential communications, but given a large number of messages, coming from the same source, the expert, by repeated comparisons, frequently secures the key, and the Government over whose lines the message passes reads the code.

Mail is too slow, so there is always the danger of State information reaching a trade rival or foreign Government agency.

Trade rests primarily upon having something to sell and an opportunity for sale, and sale to-day is controlled by each day's market price. The buyer must know this price daily. He must have an opportunity to make offer quickly, to make an inquiry that brings a prompt answer, and this can be done only by the radio or the cable.

Shipping is dependent largely upon cable service, and American ships should not be dependent upon English cables, and American captains should not be compelled to send their messages back home over an English line.

If we enter into competition for the world's trade we can not do it successfully without American-owned communications.

Practically all of our news service to the world passes over the wires of foreign countries, and this is particularly true of the Latin-American Republics, where, with the exception of the service partly rendered by the All-American Co., all of our news items go first to England and from there, over the English cables, to the Republics of the south.

Without additional cable service we can not compete with the English and French in giving the American viewpoint to the world. A common understanding and a daily news service brings that contact between nations which is necessary for successful trade, and we do not at present have that service with the Republics of South America.

American commerce has only developed as American news service has developed. There is a demand for increased service of this kind, but it is dependent upon the cable and the cable rate.

In the Pacific we are nearly helpless because the German news service to China and Japan is discontinued, of which the English Reuter service has a practical monopoly since the German service was discontinued.

If this law is the first step which directs American attention and enables the American Government to build up American

enterprise and places the power of the Nation back of American endeavor to compete with foreign monopoly in friendly nations, the effort is well worth the experiment.

Our newspaper copy and daily description of American life should reach Latin-American countries with the same facility and at equal price with the European news. The only reason why the world's news service is now largely in the hands of English and French syndicates is because those countries control the cables.

Cable communication for news should be supplemented by the wireless, and it should be the policy of our Government to permit, under proper restrictions and regulations, the uses of our radio service for this purpose whenever it is practicable.

News goes with the cable; trade goes with the news; and national honor goes with efficient Government service exercising a power that can not be disputed.

We ask that ship for ship and gun for gun the American Navy shall not be excelled by any other nation. Should we not add that in world communication we should not be excelled by any other nation? [Applause.]

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman from Massachusetts yield?

Mr. WINSLOW. I will.

Mr. GARRETT of Tennessee. Has there been any arrangement made about time?

Mr. WINSLOW. I understood that at the end of the hour under my control the previous question will be moved.

Mr. GARRETT of Tennessee. Of course, if that is the plan I do not intend to object, but I was wondering whether there would be objection to extending the time a little while?

Mr. WINSLOW. The arrangement was made that way and it might disturb gentlemen if it is not carried out.

Mr. RAYBURN. I want to say the gentleman from Kentucky [Mr. BARKLEY] a moment ago stated that he expected to take the floor for an hour in his own right. He will not have an hour in his own right, or any time, except as the gentleman from Massachusetts yields him, unless by unanimous consent the time is extended. The gentleman from Illinois controls what remains of the one hour and the gentleman from Massachusetts what remains of the other.

Mr. WINSLOW. The arrangement originally was that the time was to be controlled by Mr. BARKLEY and myself, but later on that was abandoned, and later yet Mr. DENISON decided that he would like to exercise the option of an hour by virtue of his opposition to the bill.

Mr. RAYBURN. I did not wish that there should be any misunderstanding on the part of the gentleman from Kentucky as to whether he is to get any time, because he is not, unless by unanimous consent—

Mr. WINSLOW. By arrangement in the distribution of time Mr. BARKLEY was to have 15 minutes, and later he yielded 5 minutes to the gentleman from Missouri, so he now has 10 minutes, which I hope he will use. Mr. Speaker, I yield 5 minutes to the gentleman from Kansas [Mr. HOCH].

Mr. HOCH. Mr. Speaker and Members of the House, it is, of course, impossible to say much on a question of this magnitude in five minutes. The only serious attack that has been made upon this legislation is this: That while this power should be exercised somewhere, it should be lodged in the Congress rather than in the President. That is the only contention. I think that the gentlemen who urge that view fail entirely to emphasize the essentially international character of cable landings. The landing of a cable connecting this country with foreign shores is so essentially, so fundamentally, a matter involved in international negotiations that it would absolutely defeat the whole purpose of the legislation if we were to force them to come to Congress in each particular instance to secure the landing of a cable. Gentlemen, I shall not say anything just anti-British. No one finds any fault with Great Britain for looking after her interests, and you will find if you will look in the most cursory way into these matters that the British foreign office is always behind British business enterprise in any quarter of the world that you may go, and if we, in the furtherance of American business enterprise, are to be compelled to go to the slow and cumbersome processes of Congress, which many times may not be in session, we will absolutely lose out in the race for the world's business. Take this particular instance here in which this situation arises. Here is a British company that has a British monopoly in Brazil seeking entrance into the United States through the medium of a cable line from Miami to the Barbados Islands, halfway down to Brazil. Our Government through its Executive has been in the course of negotiations to overcome the British monopoly in Brazil. Now, are we to put all this up to Congress and take away from the Presi-

dent the power to say that before they land and do business here they must give up the monopoly in Brazil? If so, as a practical matter you will have left no power with which to carry out the purpose in such international matters. Is it of no consequence to American business whether American messages are delivered over an American line or a British line? Reference was made to the All-American Co. I hold no brief for the All-American Co., but briefly here is the situation: Here is the All-American Cable Co., a company of American business men, absolutely controlled by American capital, which runs a cable down from New York to Panama and along the west coast of South America.

That company has sought to get into Brazil from the south. Now, then, what will happen if you permit this contract between the Western Union and the British company to go into effect? Every message that I might want to send or that you might want to send from your home to Rio de Janeiro, for instance, delivered to the Western Union Co.—and remember that the All-American Cable Co. is solely a cable company and has no interior lines in the United States by which to gather its messages—if you permit this contract to go through, then the message delivered for Rio de Janeiro from my home in Kansas to the Western Union will be delivered over the British monopolistic system to Rio de Janeiro. They insist that I would have no power to say that I want that message delivered, after the Western Union has started with it, over an American line, but carrying out their contract with the British company, after getting hold of that message they would deliver it over the British line into Rio de Janeiro. They deny the right of "via," directing otherwise.

I wish I had time to go more fully into that phase or aspect of the matter in controversy. While in a measure it is a contest between two great companies to control the future business of Brazil, one of the companies is controlled by American capital and the other is a partner of a British company controlled by British capital. And I prefer to have American messages carried over the line from the time the message starts from my hand to the time it is delivered in a foreign country, and all the way along the line, in control and under the supervision solely of American interests. [Applause.] And this particular controversy is but typical and suggestive of the situations which this legislation is to provide for.

Mr. DENISON. Will the gentleman yield?

Mr. HOCH. I will.

Mr. DENISON. The gentleman just made the statement that the Western Union is controlled by British capital. I wish the gentleman would take that out of the Record.

Mr. HOCH. No; the gentleman misunderstood me, or else I spoke inadvertently. I intended at least to say that the British company at the other end of the line was so controlled, and that company would have the American message at the time and place of delivery.

Mr. WINSLOW. Mr. Speaker, I yield the remaining time to the gentleman from Kentucky [Mr. BARKLEY].

Mr. BARKLEY. Mr. Speaker and gentlemen of the House, every one will recognize that no matter how liberal we are in debate on Calendar Wednesday, no Member can hope to discuss the details of an important technical bill like this in the time allotted to any of us. I desire briefly to visualize the situation, as it occurs to me, that has brought about this legislation and the urgency for its immediate enactment.

I think it was testified that in 1919 Mr. Newcomb Carlton, president of the Western Union Telegraph Co., went to England, and while there he negotiated a contract with what is known as the Western Co., which is a cable company owned by British interests. Under the terms of that contract the British company were to build a cable from Brazil to Barbados, and the Western Union Co. was to build the rest of the line from Barbados to the United States. There are already cables reaching from Europe to South America, owned almost exclusively by British interests, not necessarily by this Western Co., but by British capital. Early in 1920, or perhaps before that, the Western Union Telegraph Co. made application to the State Department for a license to land the American end of this cable from Barbados to the United States at Miami, Fla. In March, 1920, the Secretary of State indicated to the Western Union Telegraph Co. that the license would not be granted, and that the State Department did not look favorably upon the landing in the United States of a cable, although owned entirely by American interests, that connected up with a foreign cable which at the other end connected with the company which possessed exclusive monopolistic rights in a foreign country. And by that I mean that no other company that might land in Brazil or connect its cable with any part of Brazil, where the Western British Co. now has a station, can collect messages

from throughout Brazil and send them to the United States. They will allow an American cable, for instance, to land at one point in Brazil for the purpose of refreshing its current, but it is not permitted to gather messages or serve the people of Brazil in any way, and if that particular cable company desires to send to the United States over its line a message originating in Brazil it must send it over a foreign line that has the exclusive right to gather messages in Brazil.

Mr. BANKHEAD. Will the gentleman yield?

Mr. BARKLEY. I will.

Mr. BANKHEAD. Does the gentleman mean by that that the Government of Brazil has bestowed this monopoly upon the Western Co.?

Mr. BARKLEY. Yes, sir. The Government of Brazil has bestowed that exclusive concession upon the British Western Co., and the concession does not expire for a number of years.

Mr. BANKHEAD. And we have no treaty provision with Brazil for prohibiting the granting of such a monopoly?

Mr. BARKLEY. Apparently not.

Not only did the State Department notify the Western Union Co. in March, 1920, but they also did the same thing in April, and the last notice was given in August, 1920, in which they advised the Western Union Telegraph Co. that they would not be granted the right to land this cable at Miami, Fla. They had their minds made up to land it anyway. Now, mind you, the Western Union Co. has cables now in the United States that are operated and which were landed under license or permits granted by the President.

The right of the President to issue a permit was never questioned wherever he acted favorably on an application, but where the permit was refused the Western Union Co. for the first time questioned the right of the President to do it, and went into court to test whether he has that right. The first action was brought by the Western Union against Josephus Daniels, then Secretary of the Navy, to enjoin his sending a battleship down here to prevent the landing of the cable. The Government instituted injunction proceedings in the southern district of New York to prevent the landing of the cable, and that question is now pending before the Supreme Court. The fundamental question to be decided there is not whether the Government has the right to regulate the landing of cables, not whether the Congress has the right to regulate the landing of foreign cables in the United States, but whether, Congress having given no power to the President, he has the power to prevent it. And if the Supreme Court shall render a decision upholding the contentions of the Western Union Telegraph Co., they have on the ground a cable ship that will land that cable in less than 24 hours. So that is the reason for the urgency for the enactment of this bill; that is the reason why it ought not to be permitted for a corporation or an individual or a combination of individuals to thwart the Army, the Navy, the Congress, the Supreme Court, and the President of the United States [applause] and land a cable upon our shores without any lawful authority. [Applause.] And if the Supreme Court shall sustain their contention and they do land, they land lawfully, because if nobody in the United States Government has the power to prevent their landing, and they land, then it is a lawful landing.

Mr. HARDY of Texas. Mr. Speaker, will the gentleman yield for a question?

Mr. BARKLEY. Yes.

Mr. HARDY of Texas. Would the same result be accomplished if this bill were amended so as to prohibit the landing of such a cable or until Congress by legislation authorized such landing?

Mr. BARKLEY. Of course, it would prevent the accomplishment of this landing or any other landing. But Congress would then have to pass a special act every time the question arose.

Mr. DAVIS of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. BARKLEY. Yes.

Mr. DAVIS of Tennessee. I just wanted to call the gentleman's attention to the fact that the Western Union Telegraph Co. recognized the right of the President to issue licenses, even in this instance, by making application to the President.

Mr. BARKLEY. Yes. The gentleman is right about that. They assumed that the authority that had been exercised by the President for 59 years was a lawful and legal authority, and, recognizing it as such, they made their application for a permit, and when the President refused to grant it, then they went into court and denied that he ever had the power either to grant or to refuse a permit.

Now, the gentleman from Illinois [Mr. DENISON] has made a very able argument here against conferring this power upon the President upon constitutional grounds. But before I get to

that I desire to say that there is not another nation in the world that has any cable communication with the outside world that does not have a law regulating the landing of cables on their shores. I do not regard it as being very vital or fundamental whether Congress shall retain the right to pass upon any individual case or whether that authority shall be delegated to the President. The fact is that the issuance of a license or a permit is an executive function. It is not a legislative function. We conferred that same power upon the Secretary of Commerce and Labor in 1912, and that law is still in force, except that the Secretary's name was changed to the "Secretary of Commerce" when we empowered him to issue licenses for radio stations in the United States that desired communication with the outside world. And there is no radio company or station anywhere in the United States now that can operate except under a license issued to it by the Secretary of Commerce. It might have been argued that in each case the Congress has the right to issue the license and fix the terms upon which the radio station may be operated; but these are merely executive and administrative functions and duties which the Congress confers. Nobody contends that the Congress has not the right either to permit or to prevent the landing of these cables in the United States. If we have the power to prevent, why, we have the power to prevent in each case the granting of a permit, and if we have the power to permit we have the power to permit in each case. But it is impossible for Congress to legislate in advance and provide for all the minutiae and all the stipulations that will be necessary in providing for the landing of each cable in the United States. It may be that these powers may be arbitrarily exercised by the President of the United States. I presume if they are arbitrarily exercised by the President of the United States, and without reason, the courts will have the right to review the executive actions of the President and indicate those that are beyond his reasonable powers. But this cable or any other cable that is laid ought to be laid under regulations and under a license, and the terms ought to be stipulated in the permit.

This question arose, I think, in 1869 because a French cable company desired to land its cable in the United States, and the French Government at that time had given to certain interests the right to a cable monopoly in France, and no American cable could land in France upon the same terms that the French cable was proposing to land in the United States; and President Grant, exercising what he thought was his right, refused to allow them to land, because reciprocal rights were not enjoyed in France by American cable companies.

This bill proposes to give the President of the United States the same power. If any cable is about to be landed from a foreign country that refuses to deal fairly and reasonably and impartially with an American cable company, the President will have the power to prevent the landing of that particular cable until the country from which it is projected shall grant to the American interests the same right to land cables in their country on terms of entire equality with all other cables that may be landed there.

Gentlemen, I am sure, will realize the importance of this measure not only in South America but in all the world. We are seeking to expand our commerce. The matter of cable communication is vital in the extension of commerce, and that is why the British Foreign Office is behind every cable company that starts out from a British possession and lands anywhere in the world. The terms of the contract between the British company and the Western Union practically amount to a monopoly in the United States of the messages that are to be sent by the British company from South America. They are all to be sent here through the Western Union. All the messages that are to be sent over the British cable to South America are to be sent from here by the Western Union, and all the messages that are to be sent from Brazil to the United States are to be distributed throughout the United States by the Western Union telegraph lines; so that the effect of the contract that has been made between these two links of the same concern, for all practical purposes, is to create a monopoly in the United States, and the only other avenue of escape is to use the facilities of the Postal Telegraph Co., which does only about 15 per cent of the telegraph business of the United States. So that the effect of the landing of this or any other cable similarly situated will be to permit a foreign cable, beginning in a country that may be unfriendly to American cables—because granting a monopoly to a foreign concern—will be to permit a foreign cable to use the Western Union Telegraph Co. as a cat's-paw to get into the United States, when no American company can land in Brazil to do business in Brazil.

Not only that, but if this thing goes through and the contract is carried out and their plans are permitted to be developed and completed, they will sew up all South America by reason of

this monopoly. They already have a line of communication running around not only the eastern coast of South America but also on the western coast to Lima, Peru, and they are projecting a line running from Lima to Colon, which would encircle all South America by these foreign connections, and then they would use the Western Union in this country as the neck of a telegraphic bottle that would encircle the entire continent of South America.

I hope this bill will be enacted; and if it is I think the interests of all the people of the United States will be served. [Applause.]

Mr. WINSLOW. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

After the word "act" and the period, in line 22, page 2, of the bill, strike out the rest of the section and insert in lieu thereof the following language:

"When any such cable is about to be or is landed or is being operated without a license, any district court of the United States exercising jurisdiction in the district in which such cable is about to be or is landed, or any district court of the United States having jurisdiction of the party, shall have jurisdiction at the suit of the United States, to enjoin the landing or operation of such cable or to compel by injunction the removal thereof."

Mr. WINSLOW. Mr. Speaker, I move the previous question on the bill and amendments thereto to final passage.

The previous question was ordered.

The SPEAKER. The Clerk will report the first amendment. The Clerk read as follows:

Page 1, line 8, strike out the word "however" and the comma that follows.

The amendment was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Page 1, line 9, after the word "any," insert the word "such."

The amendment was agreed to.

The Clerk read as follows:

Page 1, line 12, strike out the words "of the approval of," and after the word "act," insert the words "takes effect; And provided further, that the conditions of this act shall not apply to cables all of which, including both terminals, lie wholly within the continental United States."

The amendment was agreed to.

The Clerk read as follows:

Page 2, line 5, after the word "satisfied," insert the words "after due notice and hearing."

The amendment was agreed to.

The Clerk read as follows:

After the word "act" and the period, in line 32, page 2, of the bill, strike out the rest of the section and insert in lieu thereof the following language:

"When any such cable is about to be or is landed or is being operated without a license, any district court of the United States exercising jurisdiction in the district in which such cable is about to be or is landed, or any district court of the United States having jurisdiction of the parties, shall have jurisdiction at the suit of the United States, to enjoin the landing or operation of such cable or to compel by injunction the removal thereof."

The amendment was agreed to.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

The title was amended.

On motion of Mr. WINSLOW, a motion to reconsider the vote whereby the bill was passed was laid on the table.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. KEARNS, for three days, on account of official business.

To Mr. MILLER, for three days, on account of official business.

To Mr. QUIN, for the balance of the week, on account of official business at the Military Academy, West Point.

To Mr. FISHER, for three days, on account of important official business.

#### DYES AND CHEMICALS.

Mr. LONGWORTH. Mr. Speaker, I ask unanimous consent to address the House for two minutes.

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

There was no objection.

Mr. LONGWORTH. Gentlemen of the House, there is in the caucus room of the House Office Building an extremely interesting exhibit this week. It is of the coal-tar chemicals, showing their vast importance, both in time of peace and war, and showing the interdependence of the dye industry with the making of explosive and poisonous gases, perfumery, and medicine prop-