

the letter which the Senator from Minnesota read from the convict in California says is going on all the time. In Maine, whenever it is invoked in the hearing before the governor, the opinion of the officer trying the case and of the judge passing the sentence, everything of the kind, is looked into, and the cases where it is put in operation in favor of the convict are extremely few, as they always will be when the matter is left, as I believe it should be left, to the pardoning power.

Mr. CLARK of Wyoming. Will the Senator allow me just a moment?

Mr. HALE. Certainly.

Mr. CLARK of Wyoming. The bill provides that no parole shall become operative until the findings of the board are approved by the Attorney-General. For one I am perfectly willing to meet the Senator's objection and in place of "the Attorney-General" insert the words "the President of the United States," if that will remove his objection.

Mr. HALE. It would not, because I do not think the President of the United States or the Attorney-General ought to be vested with the examination, as it would result throughout the United States of hundreds, it may be thousands, of these cases.

Mr. CLARK of Wyoming. Why does the Senator think that there would be hundreds and thousands of these cases more than cases of application for pardon which the President and the Attorney-General have to examine?

Mr. HALE. Clearly there is no analogy. If it was operating to the satisfaction of the criminals, there would be no call for this legislation. It is because the feature of the pardoning power, which has always been recognized, is rarely invoked, and still more rarely exercised, does not meet the sentimentality of the case. The feeling that the Senator expresses that we ought to hesitate about punishing criminals—

Mr. CLARK of Wyoming. To what Senator does the Senator from Maine refer?

Mr. HALE. The Senator from Minnesota.

Mr. NELSON. Oh, no. I did not say we ought to hesitate, but I said we ought not to make the mere punishment the chief object.

Mr. HALE. The Senator says that the main object of trial and conviction and imprisonment is not to punish. He says the object is to prevent—

Mr. NELSON. To reform is the chief object.

Mr. HALE. That is it. Now, I do not agree with the Senator. That is the old argument used everywhere against inflicting capital punishment. It is the sensitiveness about interfering with the personal liberty of a criminal and with punishing him and making it even under the law; that if he has taken life, his life shall be taken; that if he has committed a foul wrong—not murder—upon a man or woman, he shall be punished; that the community shall know that crime shall not go unpunished.

In every case where a trial takes place after the most atrocious crime has been perpetrated, it is not intended that punishment shall be inflicted, but that the atrocious criminal shall be reformed and made a good citizen and let out after a short time. I do not, Mr. President, in any way, shape, or manner sympathize with this sentiment, always invoked, not for innocent men, but for men who, after all the opportunities that the courts give, have been convicted of foul crime.

I do not sympathize in the slightest degree with the theory, and I can not vote for this bill. To me it is a great departure. I do not know how many States have tried it. I doubt whether many States have passed statutes that are so completely in the interest of the bad convict, not the good convict. The Senator says that in his State after getting rid of the Youngers they provided that the murderer might be let out after a year and a day. To me, Mr. President, that is a most serious innovation. As I have said, I do not know how many States have tried it. I have not looked the matter up. Again I say, I doubt whether many States have passed so free and sweeping amnesty upon criminality as this bill proposes.

Mr. BACON. If the Senator will pardon me a moment, I want to say to him that so far as my contemplation of this legislation is concerned I had anticipated that it would be exercised in a very limited degree. I did not suppose that every murderer or every man who had committed a minor crime would be released, but that it would be exercised only in cases where it would be evidently and manifestly for the good of society.

Mr. HALE. But every murderer may be released; and, Mr. President, the great criminals whom the law convicts and sends to prison are not by any means most of them murderers.

Mr. NELSON. Will the Senator allow me to interrupt him?

Mr. HALE. Certainly.

Mr. NELSON. Does not that same argument apply to the pardoning power in the case of the President or a governor?

He has absolute power. The President of the United States to-day, if he saw fit, could open the prison door to every convict in this country, and so could the governors of States, except where the States have established pardoning boards. Is it not better to leave this matter to the discretion of a board than to a single individual?

Mr. HALE. No; that is my chief objection. The pardoning power is a conservative power. It is rarely exercised. It never will be much exercised. It never ought to be exercised in a great many cases, and it never will be. But this is proposed because the pardoning power does not accomplish what the sentimentalists want in favor of the men who have been convicted of high crimes and sentenced to punishment.

I see that the hour of 2 o'clock has come.

The VICE-PRESIDENT. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is Senate bill 6484.

#### THE THIRTEENTH AND SUBSEQUENT CENSUSES.

Mr. LONG. I desire to give notice that on Friday, the 8th instant, I shall call up the bill (H. R. 16954) to provide for the Thirteenth and subsequent decennial censuses.

#### HARRIMAN V. THE INTERSTATE COMMERCE COMMISSION.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States (S. Doc. No. 634), which was read and referred to the Committee on Interstate Commerce and ordered to be printed.

#### To the Senate and House of Representatives:

The recent decision of the Supreme Court of the United States in *Harriman v. the Interstate Commerce Commission* seems to render advisable further legislation in the way of amendments to the existing law which will confer upon the Interstate Commerce Commission, so far as the Congress has constitutional power to do so, the authority claimed for it in the case recently decided against it by the Supreme Court. Mr. Justice Day, in delivering the dissenting opinion, concurred in by Mr. Justice Harlan and Mr. Justice McKenna, says, in part:

"The function of investigation which Congress has conferred upon the Interstate Commerce Commission is one of great importance, and while, of course, it can only be exercised within the constitutional limitations which protect the individual from unreasonable searches and seizures and unconstitutional invasions of liberty, the act should not be construed so narrowly as to defeat its purposes."

Apparently the language of the act is such that there is danger lest the last-mentioned result will unavoidably ensue upon the authoritative construction placed thereon by the Supreme Court, and it is therefore obvious that the Congress should amend the act and change the language so as explicitly to empower the commission to require by subpoena the attendance and testimony of witnesses and the production of all books and papers relating to any matter under investigation, and this by virtue of the powers conferred upon the said commission by any section of the law under which it is acting, or of any act amendatory thereof, so as to aid it in ascertaining facts upon which it can recommend any additional legislation in reference to the regulation of commerce that it may conceive to be within the power of the Congress to enact.

I further recommend that the commission be explicitly empowered by order to postpone the application of any increase of rates by any railroad pending examination by the said commission into said increase to see whether or not it is justified. The regulation of the railroads should be put as completely as possible in the hands of the commission, for it can only be rendered effective by being put completely under the control of some branch of the National Executive, the action of this branch to take effect immediately.

THEODORE ROOSEVELT.

THE WHITE HOUSE, January 6, 1909.

#### TENNESSEE COAL AND IRON COMPANY.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States (S. Doc. No. 635), which was read and referred to the Committee on the Judiciary and ordered to be printed:

#### To the Senate:

In connection with the following resolution of the Senate, passed January 4, 1909:

"Resolved, That the Attorney-General be, and he is hereby, directed to inform the Senate:

"1. Whether legal proceedings under the act of July 2, 1890, have been instituted by him or by his authority against the United States Steel Corporation on account of the absorption by it in the year 1907 of the Tennessee Coal and Iron Company, and if no such proceedings have been instituted state the reasons for such nonaction.

"2. Whether an opinion was rendered by him or under his authority as to the legality of such absorption; and if so, attach a copy if in writing, and if verbal state the substance of it."

I transmit herewith the following letter from the Attorney-General:

OFFICE OF THE ATTORNEY-GENERAL,

Washington, January 6, 1909.

THE PRESIDENT, The White House.

SIR: In accordance with your instructions, I have the honor to inclose you a certified copy of the resolution adopted by the Senate wherein I am directed to inform the Senate whether legal proceedings under the act of July 2, 1890, have been instituted by me or by my authority against the United States Steel Corporation on account of the absorption by it, in the year 1907, of the Tennessee Coal and Iron Company. As you are aware, no such proceedings have been instituted.

I remain, yours, most respectfully and truly,

CHARLES J. BONAPARTE,  
Attorney-General.

As to the transaction in question, I was personally cognizant of and responsible for its every detail. For the information of the Senate I transmit a copy of a letter sent by me to the Attorney-General on November 4, 1907, as follows:

THE WHITE HOUSE,  
Washington, November 4, 1907.

MY DEAR MR. ATTORNEY-GENERAL: Judge E. H. Gary and Mr. H. C. Frick, on behalf of the Steel Corporation, have just called upon me. They state that there is a certain business firm (the name of which I have not been told, but which is of real importance in New York business circles) which will undoubtedly fail this week if help is not given. Among its assets are a majority of the securities of the Tennessee Coal Company. Application has been urgently made to the Steel Corporation to purchase this stock as the only means of avoiding a failure. Judge Gary and Mr. Frick inform me that as a mere business transaction they do not care to purchase the stock; that under ordinary circumstances they would not consider purchasing the stock, because but little benefit will come to the Steel Corporation from the purchase; that they are aware that the purchase will be used as a handle for attack upon them on the ground that they are striving to secure a monopoly of the business and prevent competition—not that this would represent what could honestly be said, but what might recklessly and untruthfully be said. They further inform me that as a matter of fact the policy of the company has been to decline to acquire more than 60 per cent of the steel properties, and that this purpose has been persevered in for several years past with the object of preventing these accusations, and as a matter of fact their proportion of steel properties has slightly decreased, so that it is below this 60 per cent, and the acquisition of the property in question will not raise it above 60 per cent. But they feel that it is immensely to their interest, as to the interest of every responsible business man, to try to prevent a panic and general industrial smash up at this time, and that they are willing to go into this transaction, which they would not otherwise go into, because it seems the opinion of those best fitted to express judgment in New York that it will be an important factor in preventing a break that might be ruinous; and that this has been urged upon them by the combination of the most responsible bankers in New York who are now thus engaged in endeavoring to save the situation. But they asserted they did not wish to do this if I stated that it ought not to be done. I answered that while of course I could not advise them to take the action proposed, I felt it no public duty of mine to interpose any objection.

Sincerely, yours,

THEODORE ROOSEVELT.

Hon. CHARLES J. BONAPARTE,  
Attorney-General.

After sending this letter I was advised orally by the Attorney-General that, in his opinion, no sufficient ground existed for legal proceedings against the Steel Corporation, and that the situation had been in no way changed by its acquisition of the Tennessee Coal and Iron Company.

I have thus given to the Senate all the information in the possession of the executive department which appears to me to be material or relevant, on the subject of the resolution. I feel bound, however, to add that I have instructed the Attorney-General not to respond to that portion of the resolution which calls for a statement of his reasons for nonaction. I have done so because I do not conceive it to be within the authority of the Senate to give directions of this character to the head of an executive department, or to demand from him reasons for his action. Heads of the executive departments are subject to the Constitution, and to the laws passed by the Congress in pursuance of the Constitution, and to the directions of the President of the United States, but to no other direction whatever.

THEODORE ROOSEVELT.

THE WHITE HOUSE, January 6, 1909.

#### SALARIES IN THE EXECUTIVE DEPARTMENTS.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States (S. Doc. No. 638), which was read and, with the accompanying paper, referred to the Committee on Civil Service and Retrenchment and ordered to be printed:

To the Senate and House of Representatives:

I transmit herewith for the consideration of the Congress a revised statement, prepared by the Committee on Grades and Salaries under the executive order of June 11, 1907, for the reclassification and readjustment of salaries in the executive departments, and estimates of appropriations based thereon.

The reclassification of employees should be authorized now, even if the additional appropriations suggested can not now be made. The existing classification does not meet the needs of the service. The basis of the reclassification is character of work rather than amount of salary; it would avoid the need of special positions and result in much higher efficiency.

THEODORE ROOSEVELT.

THE WHITE HOUSE, January 6, 1909.

#### POSTAL SAVINGS BANKS.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 6484) to establish postal savings banks for depositing savings at interest with the security of the Government for repayment thereof, and for other purposes, which had been reported from the Committee on Post-Offices and Post-Roads with amendments.

Mr. CARTER. I ask unanimous consent that the formal reading of the bill be dispensed with and that the bill be read for amendment.

The VICE-PRESIDENT. The Senator from Montana asks unanimous consent that the formal reading of the bill be dispensed with, that the bill be read for amendment, and that the committee amendments be first considered. The Chair hears no objection and the Secretary will proceed with the reading of the bill.

Mr. RAYNER. I wish to ask the Senator from Montana if he will agree to let the bill go over until next week. I do not object to the reading of it; I do not care about that, but several of us desire to make some remarks on the bill.

Mr. CARTER. I do not expect a vote to-day on the bill. I presume it will go over, necessarily, until next week.

The VICE-PRESIDENT. The Secretary will proceed to read the bill.

The Secretary proceeded to read the bill.

The first amendment of the Committee on Post-Offices and Post-Roads was, in section 1, page 1, line 4, to strike out the word "banks" and insert the word "depositories," so as to make the section read:

That there be, and is hereby, established a system of postal savings depositories, to be under the direction and supervision of the Postmaster-General, in conformity with the provisions of this act.

The amendment was agreed to.

The next amendment was, in section 2, page 1, line 11, to strike out the word "bank" and insert the word "depository," so as to read:

That each and every post-office within the United States which is authorized to issue money orders, and such others as the Postmaster-General in his discretion may from time to time designate, are hereby declared to be postal savings depository offices to receive deposits from the public and to account for and dispose of the same according to this act.

The amendment was agreed to.

Mr. BURKETT. I should like to ask the Senator from Montana a question in reference to this section. Does he prefer to go through the committee amendments first? I should like to ask the Senator why it is that in this section he provides for post-office savings depositories being established in money-order offices, and then later on he provides that the Postmaster-General may establish not only such offices but depositories at offices of the first, second, and third classes. Why would it not be better to be put in the first, second, and third classes in the first place and be through with it?

Mr. CARTER. The peculiar provision referred to at the close of the section has regard to the task of installing the system. In the nature of things, it will be quite impossible simultaneously to install the system in all parts of the country and in all the post-offices. Therefore the Postmaster-General is given by the bill opportunity for the gradual installation in such manner as will not demoralize or injuriously affect the postal service.

Mr. BAILEY. I wish to inquire what is the status of the bill.

The VICE-PRESIDENT. It is before the Senate. The formal reading of the bill was dispensed with by unanimous consent, and the bill is being read for amendment, the committee amendments to be first considered.

Mr. BAILEY. Then a parliamentary inquiry, Mr. President. As I understand it, the bill, of course, after the committee amendments or other amendments are disposed of, would still be open for debate in the Senate?

The VICE-PRESIDENT. That is correct. It will also be open for amendment in the Senate.

Mr. BAILEY. I have no interest myself in the amendments. I have some interest in the general debate. I did not want to lose the opportunity of having a word to say against it. Of course I am perfectly willing, indeed, I would prefer, that the proponent of the measure should perfect it so far as such a measure can be perfected before we come to debate it.

Mr. BURKETT. I desire to ask the view of the Senator from Montana further with reference to the part of the bill just read. In the bill, which I introduced some time ago, I provided that these depositories should be established only in the first three classes.

Now, if I understand the Senator's bill correctly, they can be established in any post-office as soon as the Postmaster-General desires to establish them. That is the situation, if I get the idea of the bill correctly.

Mr. CARTER. The bill provides that all the money-order offices and such other offices as the Postmaster-General may designate shall be postal depositories. The requirement is that the money-order offices shall be provided with postal depository machinery as rapidly as the Postmaster-General can install the same without injury to the service. I hope that answers the question of the Senator from Nebraska.

Mr. BURKETT. Yes; it does. The only object I had in asking the question was that it seems to me probable that this ought to be confined to the first three grades; for, if I understand the organization of the Post-Office Department correctly, the fourth-class postmasters are not under salary. They are not paid a regular salary. They provide their own rooms and their own equipment. It occurred to me that very possibly we