

## Speech delivered before the Kansas Legislature by W. L. Huggins

This is a speech by William L. Huggins, speaking in favor of the proposed bill on industrial legislation before the joint sessions of the legislature. Judge Huggins presided over the Kansas Court of Industrial Relations and authored the bills, House Bill No.1 and Senate Bill No. 1.

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### SPEECH DELIVERED BEFORE THE KANSAS LEGISLATURE BY W. L. HUGGINS, JANUARY 9, 1920.\*

I HOPE you will all help me by your sympathy, and if it were in a Methodist prayer meeting I would say by your prayers. I fully realize I am up against a big job. I am not an orator and I am not going to indulge myself in oratory. I am going to try, so far as I can in a brief way, to answer some of the arguments put forth by Mr. Walsh and Mr. Sheppard. I realize that I cannot hope to spend anywhere near the time they have, and I don't think that is necessary. You have listened to more than eight hours of oratory from the representatives of organized labor and I know it is not necessary to spend as much time in discussing this matter. There are a few fundamental principles that I want to state as my platform upon which to stand. I want, if I can, to get your minds back to where we started from in the wonderful flood of argument to which we listened.

I remember the first representative of labor said distinctly to you early in his address that he was in favor of democracy. As he proceeded with his speech I began to wonder whether he understood the term "democracy," and so I cast about in my mind for a definition. I cannot think of a better definition than that which was given by that typical American who in very few and simple words generally expressed his thoughts so clearly that he could not be misunderstood, and who said upon one of the great battlefields of the republic that he prayed with his countrymen that "the government of the people, by the people and for the people should not perish from the earth." Now I think it will be necessary in this year of 1920, in view of what has been said before this convention, to add to that statement and say, "Government of all the people, by all the people and for all the people." That is democracy—the will of the majority expressed in a legal way, and as to that democracy there is no controversy here. We all stand for that, but as we proceed with this argument we find, much to my surprise, that the highest encomiums are pronounced upon the leaders of labor—organized labor.

With the first speaker I was a little disappointed. I think it can be inferred from what was said that he wanted to praise the government under which we live, that he wanted us to stand by and support the government of Kansas, that he believed in this legislature and believed in organized government, and that his first duty as a citizen was to the government. But I don't believe he said it as plainly as I would have liked

\* EXPLANATORY NOTE.—At the extraordinary session of the Kansas Legislature, which convened on January 5, 1920, and continued in session until January 24, 1920, the two houses held joint sessions and invited in the representatives of labor and of the public to discuss the proposed industrial legislation known as "House Bill No. 1" and "Senate Bill No. 1." The two houses constituted themselves an audience, but invited in the general public. Organized labor was represented by Frank P. Walsh, of Kansas City, who occupied one entire day in opposing the bill. On the next day, J. I. Sheppard, representing organized labor, spoke against the bill for about three hours. Following this, W. L. Huggins, chairman of the Public Utilities Commission and author of the bill, representing the general public, answered the arguments of Mr. Walsh and Mr. Sheppard, and spoke in favor of the bill.

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to have it said, because when asked from the floor: "Do you approve of the methods by which the four brotherhoods whom you represent forced the passage of the Adamson law through Congress?" he answered in the affirmative—that he did stand for those methods. If you lawyer members of these two bodies have not read it, you will read it. Chief Justice White's opinion in that Adamson law case, in which he places the constitutionality of that act of Congress, it seems to me at least, almost exclusively upon the proposition that Congress was compelled to do that to prevent a nation-wide strike which would have paralyzed the industry of the country and would have brought suffering to every home in the land. Is that government by the majority? Is that democracy? Is that government of all the people, by all the people, for all the people? If it is, gentlemen, I don't understand the term "democracy."

Then again he was asked the question: "Do you stand for the methods adopted by the striking miners in Kansas when they refused to respond to the call of the governor and refused to permit coal to be produced in the face of severe winter weather and a shortage and actual suffering?" And he said he did. If I understand democracy, that is not democracy, and we might as well speak plainly, gentlemen.

You remember what the governor said to you—and the first speaker for organized labor admitted, it seemed to me rather reluctantly, that what the governor said "may be the truth," and that is as far as he got—the governor told you that organized labor refused to permit coal to be supplied to a hospital in which sick persons were confined, that the striking miners down there refused to let anybody mine coal, that they called the volunteers who went down there "scabs," that they took a man's union card away from him and refused to permit him to work because he had stood by the state and helped to operate one of the strip mines; that they went farther than that and persecuted him by going to his landlady and compelling her to discharge him, and in that way trying to drive him from the community. That was included in the question: "Do you approve of those methods?" And he said he did. I don't approve of those methods, and I differ with the first speaker for labor on that point.

Both of the speakers have praised Mr. Howatt. They have spoken of his altruistic motives, they told how honest and loyal he is; and I want to say something about Howatt because I am acquainted with him and it is a matter of personal experience. He was before the Public Utilities Commission and complained of the service being rendered in that section of the state by the interurban railway company. He is a most forceful man, a man of brains; I think he is one of the ablest men I ever met. At the conclusion of that hearing, which lasted a whole day, because there didn't seem to be any immediate solution of the difficulty owing to the fact that the machinery to reinstate the service down there as it should be couldn't be obtained, I appointed Mr. Howatt one of a committee of three to go down to Pittsburg to survey the situation, to work out a plan by which the service could be improved as far as it could be, and I have in my possession a letter that he wrote back personally to me, as gentlemanly a letter as I ever received, thanking the commission for what had been done and reporting the progress that had been made. So I want to say that I haven't the least animosity toward

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Howatt, but I think he is wrong, and in that I am in full accord with the last speaker when he says so in this particular situation of the strike in Kansas. So there is that much difference between us so far on that point.

I was particularly pleased with the address of Mr. Sheppard. He doesn't know me nearly as well as I know him, although I have met him, and I have confidence in his ability as a lawyer and I know he is a good citizen. I liked his talk and I am glad to hear him say that there is only one thing in this proposed legislation that he is opposed to, and that is the penalty. In that he differs from the first speaker as I do. The first speaker said he was opposed to every line in this bill. There has been something I hoped to learn, ladies and gentlemen, that I didn't learn. There have been a great many stories going the rounds for a great many years in regard to the situation in the coal fields. Some were newspaper talk—and we were warned yesterday by Mr. Walsh we mustn't believe anything we heard in the newspapers about industrial conditions. There is mouth to ear talk—I have heard stories going around the floor of this House and I presume you have heard some of them—that ought to be explained here, and I hoped they would be explained. Among other things I have heard it said that these poor, hard-working miners down here in this district, by means of dues, fines, etc., of one kind or another, raise over \$100,000 a year for the use of the union. I don't know whether that is so or not. I have heard it stated repeatedly that they pay their president the munificent salary of \$12,000 a year. I don't know whether that is so or not. Someone ought to inform this legislature about that. I have also heard it stated that the attorney for the mine workers' union, or for Mr. Howatt, I don't know which, is paid the princely salary of \$12,000 a year. Now either these things are true or false. This legislature ought to be enlightened, it seems to me, on these points. However it may be, I want to say this to Mr. Sheppard, the last speaker, that I heartily concur with him that love and Christian fellowship should be used in all these labor disputes. I heartily concur with him that labor is not a commodity, not something to be bought and sold, that it is not on the level with capital and not on the level of merchandise, and that any court, jury or board that has to do with labor disputes should approach all such matters in the spirit of Christianity and humanity.

I have been asked by several members of this legislature a question in regard to this bill, and I want to talk something about the bill because I think that is what you want to know about. No one has talked about this bill yet in this discussion and I want to talk something about it. I have been asked by several members of this legislature about a certain point in this bill which hasn't been mentioned in this discussion and I want to talk about that just now, if you will permit it.

What does this bill offer to labor? In the first place it offers a tribunal before which labor can go with any grievance which it may have; that is, labor in any of the industries described, and when it approaches that tribunal nobody says: "Where is your bond for costs?" The poorest laborer in the state of Kansas can walk into this proposed tribunal with his pockets as empty as the poorest man on earth and not a word is said about it. And further than that, as the matter proceeds, the state of

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Kansas, in the exercise of that Christian charity and that humanitarian principle that have been so highly spoken of here, the state of Kansas provides that poor laborer with expert advice and expert assistance, to go wherever it may be necessary that he should go, to take every bit of evidence that he wants to take without his employing an attorney, without his paying out a dollar for traveling expenses, without his employing an expert of any kind. The state of Kansas says to him: "We will get your evidence for you," and they go into the investigation of that dispute, whatever it may be, with well-paid and well-chosen experts to develop his case for him free of cost.

Now they do more than that. When the matter comes on for trial before this proposed tribunal he doesn't have to bring any kind of a lawyer, high or low, into that court. There is the staff paid by the state to develop all the facts, and this bill enjoins upon this tribunal to do all things necessary to ascertain the facts and the truth of the case, and he comes into court protected by the state, under this law, and he develops his testimony and submits his cause.

And another thing is done for him. The bill provides that the evidence shall be taken in shorthand by a reporter paid by the state, and that evidence shall be transcribed in duplicate, one copy of which shall be filed in the permanent records of this tribunal and the other shall be used in the supreme court of the state of Kansas. If the poor laboring man concludes that he has not got justice in the Court of Industrial Relations, his case is prepared for him and he goes up to the supreme court—the best court in the state of Kansas and as good a court as any in the United States of America—without cost and without having to put up security for costs.

Now the question is asked: Why do they do that? In every other court the rule is the other way—the litigant pays the cost or secures the cost or puts up a poverty affidavit. I will tell you how that happens to be in the bill. We have all talked a little about ourselves in this discussion. I am not going to talk of myself. I will tell you a story of the man who made the first draft of this bill. As a youth and a young man he worked as a common laborer, a farm laborer, where they worked sixteen hours a day and milked the cows by lantern light at night, and he walked from farm to farm in search of employment when employment wasn't as plentiful as it is now, and he knows the pinch of poverty. Afterwards as a practicing lawyer in the courts of this state he became thoroughly convinced that the penniless man, even as generous as our laws are, don't stand quite the same show in the courts of this country as the man with money does. And so in making the first draft of this bill he put these provisions in it because he believed the people of the state of Kansas, in deference to labor, ought to provide a court that was fair, a poor man's court, if you please, in which justice would be administered to the penniless man at the same price as it should be administered to the millionaire.

Now, why hasn't somebody mentioned that? Isn't that a good provision? Isn't that fair to labor, and why does the man who comes here—a man of international reputation, who talks for a whole day—say, as he holds this bill aloft, that he is opposed to every line in it.

Now that is my answer to Mr. Walsh. It is not my answer to Mr. Sheppard because I am not going to answer Mr. Sheppard's argument.

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I agree with him on everything but one point. I will come to that a little later. We are absolutely together except on one point he makes. That is part of my answer to the first speaker on labor when he says he is opposed to every line in this bill. I don't know why he is opposed to that feature of it. I can't imagine any good reason why he should be, if he represents labor and labor only. But he said that this is an anti-union bill. He says by the passage of this bill you make an iron ring around the state of Kansas and serve notice, "No unions allowed here." Where do we say that? Where is there any penalty on the labor unions? I want to say to you that the man who prepared the first draft of this bill is as much in favor of labor unions as any man on the floor of this house or any man in that gallery, and he can prove it, too, if he is called on for the proof. What is in the bill that prohibits the union? Why didn't he show us the line or paragraph or page in which such a provision is made? What does it all amount to? It all comes down to the point where it says we prohibit the strike. Is there nothing in union labor except the right to strike down its opponents by force? I say that is not a fair statement of labor's position. If this bill is passed it will give an opportunity for a fair adjudication of all such wrongs. If labor is paying these princely salaries, if labor in the mines is raising this \$100,000 a year, or half that much, I am not a statistician but it seems to me that would go a good ways towards making a sick benefit fund for its members as they may need it from time to time. Isn't that a beneficent view for labor to take? Isn't that altruistic? There isn't a word or a line in this bill from start to finish, anywhere in it, that prevents union labor from proceeding right along as it always has, save and except only one thing, and I will call your attention to that now, and I will read it to you, I will not tell you what it is. You have read it, no doubt, but to refresh your memory I will read it to you, and as I remember it is in section 17—the section the first speaker said made slaves of the laborers of this state and put into the hands of this tribunal a cat-o'-nine-tails to lash them at their work, and he brought cheers from his followers up there (pointing to the gallery). If there is anything in this bill that enslaves labor, ladies and gentlemen, then I don't understand English at all. Let us look at that a moment, section 17: "It shall be unlawful for any person, firm or corporation, or for any association of persons"—it starts right out by making them equal—"to do or perform any act forbidden, or to fail or refuse to perform any act or duty enjoined by the provisions of this act, or to conspire or confederate with others to do or perform any act forbidden"—and I will come down until I get to the main point—"for the purpose or with the intent to hinder, delay or suspend the operation of any of the industries, employments, utilities or common carriers herein specified or indicated"—the industries upon which the people of this state depend for food, for clothing and for fuel. Is it right to permit anybody who wants to to stop, suspend, hinder or limit the production of the necessities of life of this state. Is that what they are contending for? Is that the burden that is put upon labor that makes it impossible for labor unions to exist in Kansas?

But they go on and say they can't quit. Here is the provision on that, down at the bottom of the page, line 18: "That nothing in this act shall

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be construed as restricting the right of any individual employee engaged in the operation of any such industry, employment, public utility, or common carrier to quit his employment at any time." Is that slavery? I have always had an idea a slave had to ask his master before he could quit work. Nothing in this act shall be construed as depriving any individual employee the right to quit his employment at any time, "but it shall be unlawful for any such individual employee to conspire with other persons to quit their employment or to induce other employees to quit their employment," but not with the honest purpose of bettering his condition. Here are the words that govern that: "for the purpose of hindering, delaying, interfering with, or suspending the operation of any of the industries, employments, public utilities, or common carriers governed by the provisions of this act." That is what the crime is, and every lawyer in this legislature knows that the intent is one of the main elements in the crime, and if the intent is missing there can be no crime. Now when the speaker told these people, his friends and adherents here, that they couldn't quit their employment he evidently hadn't read that bill. He didn't get it as quick as Brother Sheppard did, because that language is as plain as it can be made, I think, and if it isn't I trust the lawyers in these two houses to see that the language is clarified. It is intended to mean that any employee can quit his employment at any time for an honest purpose, but that if he conspires and confederates with others to quit it must be for a lawful purpose and not an unlawful one. There is nothing in the bill that prevents labor from holding a meeting in a hall for discussing its wrongs. There is not a line in this bill that penalizes a man for attending such a meeting. It is only when done for the purpose that that coal strike was called for. It is admitted here that that strike was called for the purpose of so afflicting the people of this state that the people would compel the coal operators to do something they didn't want to do. Labor by that coal strike made hostages of the people of Kansas. Does this law make a labor union unlawful in Kansas? I say "No." Every honest American citizen who are willing to abide by the laws of the land in which they live, may proceed with their labor union. It not only does not prevent them, but dignifies them and gives the labor union a better standing in the community, a better standing before the public, and a better opportunity to do good and apply those rules of Christian charity which our brother from Fort Scott so highly extolled here. No right is taken away from the labor union except the right to violate the law—that is all.

I have been a little disappointed, or I was yesterday. I have enjoyed this meeting to-day. I kept looking yesterday for the speaker to say that if this bill should become a law that the labor unions he represented would cheerfully obey and conform to it. I think there was an inference, perhaps, in his speech that they would do that, but it didn't seem to me he said it with any great emphasis. And now I am going to say it for him because I think I know something about these men. He represents the four great brotherhoods, and I am going to say—and I hope Brother Willits is here—I am going to say that if this legislature passes that law that the four brotherhoods, all the railroad men, will cheerfully conform

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to it and not oppose it in any way, and if it proves unsatisfactory, if after the trial of one year only it is found not to work satisfactorily, then the four brotherhoods will be back here before the regular session of the legislature, as American citizens have a right to be, and they will be asking the legislature to change it. That is good citizenship. That is what they ought to do, and that is what they will do.

There are a few things, gentlemen, that are not debatable. I think it was Roosevelt who said there were some questions coming up in international law that were not subject to arbitration. There are some things that I will not debate with any man, and one of those questions is the question of obedience to the law of the land. That is not debatable. Loyal, patriotic American citizens will obey the law from choice and the other kind will be compelled to obey it. All this talk about inability to enforce the law in Kansas is nonsense, gentlemen. This is a land of law and order, and when this law is enacted it will be enforced, and as the gentleman from Chautauqua county says, if it is necessary to enforce it by a penalty, the penalty ought to be somewhere where it could be reached. I am raising a family and I am the oldest son of a large family, and I was taught the golden rule and the ten commandments. There was a time when I could repeat the sermon on the mount, but please don't ask me to do it now. I believe in all those things; but in the same Book that gives us the golden rule and the ten commandments and the sermon on the mount is a passage which an old Baptist friend of mine who believes very strongly in immersion used to quote often and to this effect: "Whosoever believeth and is baptised shall be saved, but whosoever believeth not shall be damned." That is the penalty. And he wasn't talking about horse thieves, either—he was talking about me and you and Uncle Jake, the good old soul. No law is any good without a penalty, and the lawyer from Chautauqua county knows what he is talking about when he says it.

Now there is another question that has been brought up here at which I was considerably surprised. It was in yesterday's proceedings. The speaker yesterday took occasion at great length—I think he put in at least a half hour, maybe forty-five minutes—to extoll the loyalty of labor during the great war. I don't know why he should have done that by more than a mere reference—of course that would have been proper—because I don't know of anybody in this legislature or out of it who has ever questioned the loyalty of labor during the late war. He is absolutely right. I remember reading in the London *Times* two or three years before we got into it of how the Welsh coal miners struck, and how David Lloyd George, who speaks their own language and is one of them, went down to see about it, and he said to them: "What is your grievance, why are you not producing coal? Don't you know the government can't carry on the war without it?" and they said, calling him by his first name: "Davvy, the operators have raised the price; they are getting rich off of our labor. The cost of our living has gone up and our wages remain the same, and we don't like it." And David Lloyd George replied: "Lads, if I tell ye that the government will take away from the operators all this extra profit in taxes and put it in the war will you go back to work?" And they said: "That we will." And he said: "I will do it." And they went back to work and worked steadily

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all through the war, and they sacrificed by doing it because the cost of their living had advanced. So labor in America was loyal during the war, did its part. But there were other loyal people here. Oh, sometimes when I think about it I just feel like I ought not to say anything about loyalty, I did so little. I never was under gun fire, and while we practiced at our house all the rules laid down by the government food administration I never went without a square meal. But I know people who sacrificed, and I want to tell you a little story to illustrate it. When we started our baby bond campaign down in Lyon county, and I was baby bond director for the county, some of the workers brought in this story. You know how we went out from door to door to find out how many of the baby bonds the poor people would take, with the low wages earned, the people who weren't able to take the bigger ones. They visited an old couple. The man was a stone mason. He was getting old and his earnings were low; he was poor, and he said to the canvassers: "We can't do anything for we can barely live, and it is a scant living at that, and the boy who would help us if he were here is already in France. We don't know whether he will ever get back." But the little old white-haired lady said: "Wait a minute, father," and she brought a pencil and a piece of wrapping paper and began to figure, and pretty soon said to the committee: "We can take one bond a month." And the old gentleman said: "How can we do it, mother." She said: "I have it figured out here. We can have meat twice a week three weeks in a month and the fourth week we will do without meat, and we can save it out of the meat bill," and they signed up for the bonds. Hundreds and thousands of people did that over Kansas. But that isn't all that story. These two old people hadn't the good fortune to be born under the stars and stripes. They had crossed at least three thousand miles of ocean to get to this country, as young people. They were helping support a flag that they were not born under. You may call them foreigners, but they were born under that other glorious Anglo-Saxon banner, the British flag. That flag had been in the war for three years, so they had a double reason for supporting the government in this war.

I am not saying this because it is remarkable or to detract from the loyalty of these working men who, through the Adamson law, got their big wages and short hours of work and back pay. I am not saying it to detract from the carpenters and others who worked for the government at Funston at \$12 a day—at \$72 a week of 44 hours—while the government of the United States was conscripting young men, vigorous men, out of all walks of life and putting them into those training camps and working them for 12 and 16 hours at a dollar a day—I am simply saying this, that labor that stayed on this side of the water has not made such a sacrifice for the country that it has any right to claim any preference over that little old Welsh couple down at Emporia. That is what I say. And so, gentlemen of this legislature, while you are thinking about this bill that is before you, it does seem to me that the general public which was loyal, the common citizenry of this state which made its sacrifices and was equally loyal with labor, ought to receive your equal consideration, and that is all I ask for it.

This legislature has always been fair to labor, and I believe if Uncle Jake Sheppard had thought of it he would have told you so in his speech.

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Labor has been before this legislature and its representatives from time to time and we have on the statute books of this state a labor code, which if not up to date, ought to be brought up to date, and all that labor has to do is to ask this legislature for anything fair, and I think I speak almost with authority when I say that I know this legislature will give it anything it asks that is fair. We have our mine inspection laws, our labor laws, our safety appliance acts, our workmen's compensation act, our welfare commission, and so far as I know no important and fair law has ever been asked for that hasn't been granted.

Now is this an anti-strike bill? It is wrong to call it an anti-strike bill. It is not an anti-strike bill in the sense they try to make it out to be. It does not prevent any man or set of men from leaving their work. It does say when you quit your employment you have to quit your job. That is all it says. It says to the labor union: You can't eat your cake and have it. When you quit, you quit. And it says, when you quit, if somebody else wants to come and work in your place, you can't prevent him from doing it. And that is all it says, and if the language isn't as plain as the English language can be made on that point, I know that I speak for Governor Allen when I say that he wants it made plain. No man is required to work in any particular employment for any particular length of time unless he wants to do it. The idea that the state of Kansas would even seriously consider a bill which meant slavery for the working man! You would have thrown this bill out of the window the first morning; you would not have let it be read a second time; you wouldn't have referred to a committee; you wouldn't have listened to a man who proposed it if it had had a line, sentence or syllable in it that hinted at slavery for the laboring man. And it isn't right to so misinterpret this bill to laboring people who ought to be told the truth about it. I protest, gentlemen of the legislature, it isn't fair.

Now there is another strange thing happened yesterday I don't understand. Time and time again the speaker referred to this bill as favoring capital. He referred to it "as those industries which are protected by this bill." You remember that language—used it time and time again. I don't know what he meant. I sometimes wonder whether he read the bill, or whether he didn't get it mixed up with some other bill he read somewhere else. I protest. I want to say this, I don't know of a single argument that the operator or capitalist could make against this bill that the speaker didn't already make in the forenoon. He called it state socialism. He said you had no right to make a law which takes over a man's property. He branded this bill as a socialistic bill, putting into force state socialism. Now that is the only argument that capital could make against this bill. If there is any other I hope some of my legal brethren in this house will get up and make it. I know if capital doesn't want this bill to pass it is too smart to come here and oppose it openly. And so do you. I say that Mr. Walsh either purposely or by inadvertence, I don't know which, and it doesn't make any difference, made all the argument that I know of that capital could have made if it had been present with its highest paid attorney, when he said it initiated state socialism. I want to remind you how old an argument that is. It was used in 1911 against the public utilities act, and used very vigorously. It was used

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before that against the old railroad commission act, which took over and regulated the operation of the railroads. It was used against the bank guaranty act. It was used against the compensation act, and it has been used, that same old argument, against every act that has ever been enacted to regulate any business in the state of Kansas. It was done against the bills introduced here to regulate fire insurance, and I think it was done against the blue sky law, if I remember correctly—the same old argument—and I don't care to pursue it further. It is not a valid argument against this bill, and the decisions of courts of last resort are clear upon that subject.

What else does this do? This bill, as I stated a while ago, provides a tribunal, or court, if you please to call it that, and it is a court in the broad, general sense of the term, but not in the technical sense that lawyers use the word. It is a court in the sense that it approaches this subject with a judicial frame of mind, that it takes evidence, that it makes findings of fact, that it makes an order. It is a court in the sense that the court of industry of New Zealand and Australia is. It is a court in the sense that the law passed by the British parliament, which in reality is no more than an arbitration act, but which is called the "Court of Industry." It has jurisdiction over a subject so far-reaching in its nature it is thought not proper to call it a commission. This bill was drawn with the thought of avoiding the mistakes in the old visitation act, which was declared unconstitutional because it combined judicial, legislative and executive powers in the one body. This bill provides a court for labor and capital. It provides that this court shall investigate as to both sides of the controversy. It provides that this court shall see that capital has a fair return and that labor has a fair wage. It provides that this court may investigate not only wages, but hours of labor and working conditions, and, Uncle Jake, if this court functions as it ought to, the conditions of those hovels those miners live in won't be the same a year from now as they are now, because this court is provided with facilities by which it can investigate all those matters, and when it gets through it can make an order stating what shall be the rule, the hours of labor, the working conditions, and what shall be the wages. Some lawyers say that is as far as you can go. When you have made this investigation, obtained these facts, made a permanent record that can't be gainsaid, made findings and published them, then you can't go any farther, can't go into a court and enforce it. I differ from my lawyer friends who think that. I have from time to time submitted this bill in its various stages to men whom I regard as the brightest and best informed lawyers of the state, and they say, almost unanimously that you can go farther than that. In other words, they say that after these findings are made, this court can make an order embodying the findings, and that that order can be enforced, not by the court itself, but by the supreme court of the state of Kansas.

Now that is my view of it. That is the view of most of the lawyers who have passed upon this bill. But there are some that differ; therefore, the bill is so drawn that if, perchance, the supreme court of the state of Kansas should not be willing to go as far as the supreme court of the United States did in the Adamson law case, you have still got your court, your investigation, your public record and the force of public

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opinion behind it, which, as I understand, is what Mr. Sheppard said should be done, and should stop at that. You've got all that. The bill up to that point everybody admits is a good bill. No opposition, as I understand, from anybody except Mr. Walsh, up to that point.

Now the question comes in: Can you enforce the order provided for in here? That is a subject I won't discuss at great length, because the lawyers in this legislature will take care of that. I believe it can be done, and I base my opinion not altogether upon adjudicated cases—I base it primarily upon this fact (and I believe every man present will admit it is a fact) that in every Anglo-Saxon country in the world, every government (this is an Anglo-Saxon country because our laws and institutions are founded upon the English common law)—every permanent addition to the body of the law, every enactment which has become permanent and remained has grown out of some great public necessity. In Anglo-Saxon countries the law springs from down here on the common level of the general public. In monarchical countries it comes the other way—from the top down. But in our country it comes from the bottom and springs up, and every permanent law takes root in human necessity as the tree takes root in the soil. Let me illustrate briefly. Two hundred and fifty years ago Sir Matthew Hale, one of the great judges of England, later lord chief justice, wrote a paragraph concerning public use, which has been said to be the greatest expression of its kind that ever was printed, and it was about as follows: He said if the king himself (mark that word "king") is the owner of a public wharf to which all persons must come to unload their goods, then and in that event excessive charges cannot be made for wharfage, crannage and the like, because now the wharf, the crane and the other loading facilities are impressed with a public use, and they are no longer a matter of private right only. That was a long while ago, but that has been the law in every English-speaking country of the world ever since; never has been gainsaid; and we have extended the principle—extended it in Kansas a good many years ago when we passed the law creating the railroad board, extended it further when we created the public utilities act, so that we have now not only fixed the price which the public must pay for these things, but we have compelled the continuance of the service, compelled the railroads to run their trains—to run continuously—haven't allowed a road to take off a freight train in order to boost the price of freight; haven't allowed an electric-light plant to shut down its service; and now we propose to go just one step farther than that, and here is where we get the different opinions of lawyers. We lawyers think nothing is constitutional unless some court has said it is constitutional, but if we should stop where the court stops, we never would get farther on. Some bold spirit has got to go farther. Some legislature has got to pass the law before the court can tell us whether it is constitutional or not. So we are stepping out a little bit farther in this bill and we are saying not only shall the railroads be compelled to furnish service, not only shall the electric-light company be compelled to furnish its service, and the water company and the telephone company, but because of the very necessities of the case the people must have food, clothing and fuel, and so we say to the concerns which furnish that kind of product, the bare necessities of life, "You shall not cease opera-

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tions and let the people go hungry. You shall not cease operations and let the people freeze. The law of the state of Kansas says when you do that you have committed a crime against society, because you have undertaken by arbitrary methods to cease production to boost the price, and we won't permit it."

Now, gentlemen, I am not going to weary you very much longer, but I want to talk to you a few moments about another matter. I was a little bit surprised yesterday to hear the speaker pronounce with such apparent assurance that he was not the least bit afraid of bolshevism in this country. He went on to tell you that there wasn't a particle of danger of bolshevism. He said, "Let any man, or set of men, undertake to set up between the Ohio line and the Rocky Mountains any other form of government except a democracy and see how long he lasted." What was it that Mr. Howatt, my friend and Mr. Sheppard's friend, undertook to do when he was told that Kansas was freezing, that some of the hospitals of the state didn't have coal to keep their sick warm, that the schools were shutting down, that industry was failing and men thrown out of employment, that the governor himself had gone to the supreme court and by means of a receivership had taken over the coal mines, and when the governor went down there with Christian charity and said: "You don't have to work for these operators; you work for the state, and the state will pay you the wages you are getting with the fourteen per cent allowed by the national fuel administrator above what you have been getting, and the state will investigate working conditions, and when the state reports it will give you the increased wages and have it date back to the day you began work?" Wasn't that the golden rule? Wasn't that the Christian spirit? Wasn't that fair? Yet one man—one of the strongest characters I ever knew, but wrong as wrong can be—one man had the power to say: "No coal will be produced down here until I say so." What is that? Now, that is not socialism if I understand anything about socialism. I don't know that socialism is inimical to democracy, although I haven't found anyone who can tell me exactly what it is. I have a belief that when humanity becomes perfect, when all selfishness dies out of the human heart, when everybody loves his neighbor as himself, that socialism will function democratically. But Howatt wasn't proposing socialism. What was he proposing? What kind of government was it they had down there in the mining district? I am speaking now to the loyal laboring men who want to obey the law and believe in democracy as well as this legislature. He was voicing with the mailed fist the sentiment propounded by a person, a union man whose name I have forgotten, who was appointed one of the receivers of the coal mines and refused to serve because he said his first duty was to his union and not to the state. What is that? What form of government is that? And Mr. Walsh said he believed in it. What is it? Tell me. I don't know what bolshevism is. That is a new word and not in the dictionary. I looked it up. All I know about it is what I read in the papers and magazines, and if I am to understand our friend, Mr. Walsh, I am not to believe that. I am only to believe what the labor leaders say; they alone have the truth. And he didn't tell what bolshevism is. What am I to do here? I am in the dark and you are in the dark, unless you are smarter than I am. What is bolshevism? When I read in the papers, magazines

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and a book written by a man who had been over there and studied it and knows something about bolshevism, as near as I can make it out bolshevism rules by the soviet, so-called. There is another new word; I can't find that in the dictionary either, but it comes from Russia and I suspect it is all right. As near as I can find out, "soviet" is a committee of organized labor, and the delegates from the various soviets get together and they are the soviet congress, and what they say goes, and they have established in Russia what they call the "dictatorship"—kind of a bad word, but that is what they call it; that is, if I can believe anything I read in the papers, magazines, or in books I find in the libraries—they call it the "dictatorship of the proletariat." There you are again. What is the proletariat? I found that in the dictionary, and it means, as nearly as I can remember, the extremely poor; not necessarily the workers, but the extremely poor. And according to all the information I can get, bolshevism in Russia doesn't regard the rights of property at all and doesn't regard the rights or the sanctity of the family, and doesn't believe in jury trials, but believes in doing what our friend forgot himself this morning and said ought to be done to the managers of the railroad companies: "Stand them up against the wall and shoot them." He didn't mean that because he is too good a Christian. Don't misunderstand me. American labor doesn't stand for the soviet. You can't make me believe that until I see labor marching up the streets with guns instead of banners, and I don't believe that will ever happen. American labor doesn't believe in it, but there is an element, I am afraid, in American labor to-day which is of the bolshevist type and which, like our friend Foster, whom Frank Walsh says he doesn't know anything about, has gotten into labor organizations and is now boring out from the inside. Now, Howatt isn't a bolshevist. He is a Scotchman and he couldn't be a bolshevist, could he, McDougall? [Representative McDougall: "No!"] Howatt is simply a man who has been so biased by the wrongs he has seen committed against men of his kind, and has been representing those wrongs so long, that like his friend Sheppard, has got a little biased toward his side of the case; and when he sees what is right, and when he sees this law has in it exactly what he has been fighting for, for labor, all these years, a right to a fair trial and a fair hearing, with power in that tribunal when it finds out the facts in that case to compel the operators to come across, when he finds out that, that Scotchman will be the most enthusiastic supporter of this law in the state of Kansas, and I know it. But what kind of a government did they set up down there last fall that Frank Walsh says he is in favor of—a government which says "my first duty is to the union; my second duty?"—well, it didn't go that far; don't know whether it would admit it had any duty to the state or Union—he said "My first duty is to the union." He doesn't get that in the sermon on the mount nor in the declaration of independence, and he doesn't get it in the constitution of the United States nor the state of Kansas. I don't know where he got it, but I know that that, in principle, is bolshevism, and I am not afraid to call it by its right name.

What's the matter with American labor? Just that and nothing more. The radical leaders—the ideas that have been imported here from Russia—they have got into it and got a voice in it, while the loyal element is

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inarticulate. That is what is the matter with it—nothing else. Now I want to say this, that everybody claims he is the friend of labor. I am not going to parade myself as any special friend of labor—am just as friendly to labor as anything else, and no more. I want to give to labor and its representatives just a little free advice. I charge you nothing, brethren, and I hope it will be worth all it costs you. Put out the radicals, and if you can't do that, come out from among them. Now why don't you cheer that? [Cheers from the gallery.] I thought you would do it, and Glen Willits down here looks pleasant. Of course that is what you have got to do, and that is what you will do. American labor is all right. Governor Allen told you that he thinks more than half—I forget the percentage—sixty-five per cent of labor down there, of those miners, wanted to go back to work on his proposition. And why didn't they? Now Brother Sheppard, Father Sheppard, Uncle Jake—I love him, every hair of his head, because he made an address that would have done credit to T. DeWitt Talmage in his palmist days—he says he agrees that Governor Allen was right, he agrees with what he said. Governor Allen told you, and Frank Walsh even admitted it *might* be the truth—Governor Allen told you those men were afraid to go back. Uncle Jake said you have plenty of law to protect them already. And they were afraid to go back. They were afraid of what happened to that one fellow who did go to work. Is that democracy? Is that the rule of the majority? Is that government of the people, by the people and for all the people? What kind of government is that they are proposing here? They couldn't go back. There has been so much said here about the God-given right to the laboring man to strike. Let me give you a motto: I believe it is a God-given right that any man should be allowed to quit work if he wants to, but I will tell you a right I believe is higher than either—it is a God-given right, but it comes first—the God-given right to work.

Let me tell you a little story that happened to me down at Pittsburg, and it *may* be true, this thing I am telling you. I didn't read it out of a newspaper or magazine. I saw a miner down there—don't know whether he was a miner or not, said he was—and he was thirty-five or thirty-six years old. He looked distressed and I walked up to him and engaged in conversation. I asked him what he was, and he said, "I am a miner." He said he came down to see Governor Allen, and I told him I would take him to the hotel where Governor Allen was and where the state capitol was located at that time. He said: "I will tell you I am a poor man. I have a wife and five children and the youngest is only three months old. I can't afford to strike; don't have any money and I've got to go to work." And I said: "Good Lord, man, we are looking for men to work." He said, "Yes, I know it; you don't know how I feel. Do you know what I'll have to do when the soldiers leave and the governor goes away? I will have to move." What do you think of that in free America? What do you think of that in a democratic country? "If I go back and go to work to support my wife and my five little children, when they take the soldiers away I will have to move." Under the present system the God-given right to work is denied—not by the law, but by organized labor, led by radical leaders. I am proud to hear a man, representing the Kansas State Federation of Labor, say here from this platform to this legisla-

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ture that that is wrong, as Uncle Jake told us this morning. It is wrong. Don't you think we need a law of some kind to reach that situation? We don't have it on the statute books to-day, but we ought to have it, and this proposed measure, gentlemen, reaches that. It says it shall be unlawful to intimidate anybody who wants to work.

Now, I am not going to talk much longer of that. I say I am enjoying this immensely, so much better, it seems to me, than you are. All day yesterday I felt a little like I imagine a Kentucky race horse feels when he is brought out a little too soon and sees a race ahead of him a little before the finish, and it takes two men to hold him. It seemed to me there was more appeal to prejudice and passion and less statement of fact in that wonderful oration you heard yesterday than I ever heard before in all my life, and I just wanted to get out here and say: "Where do you find that, Mr. Walsh, what paragraph, what line, what section in this law says we are making slaves of working men and furnishing a commission or a court with a cat-o'-nine-tails to lash them while they work." I wish I could say that to him yet. It isn't there, and if he ever read the bill he knows it isn't there. We might as well talk plainly, gentlemen, it is not a time for camouflage. Here is a bill that attempts to remedy—now I am not going to tell you this is going to bring about the millenium, but if this is put into law it puts into effect the very best force the state can furnish, free of cost to the laboring man, to investigate and adjudicate all those wrongs he has been suffering from, lo these many years—a bill that provides for the very thing that Uncle Jake Sheppard and Frank Walsh were talking about, that they hoped to get by the exercise of conciliation and arbitration within the industry. There isn't a line, a word, not a syllable in this bill from start to finish that prevents the kind of proposition that Uncle Jake was talking about this morning in that big shoe factory. I don't know why he was talking about that unless he was preaching a sermon, but it hasn't anything to do with this bill. There is nothing in this bill that prevents the laborer and the employer from getting together on any kind of a proposition they want to put into effect. And in fact there is a strong urge in this bill to induce that kind of a thing. I will tell you what it is and I think you will all understand. It is this: You know, you lawyers, how many disputes between private individuals are settled because neither side wants to pay the lawyer anything. Never found anybody who wanted to pay a lawyer. You know how many disputes are settled between neighbors in a friendly way because they don't want to go to the expense of a lawsuit. And I believe every lawyer in this body would agree with me that far more cases are settled before they get into court than are litigated. I believe it is the experience of every lawyer. They don't want to go into the courts to waste their money on litigation, and so they get together and settle it. Now a dispute comes up between employers and employees in any of these industries. There are mighty good reasons why the employers don't want to go into this court, because every book, letter file, and record of any kind they have is subject to be brought before this court and is subjected to unfriendly eyes, at least to eyes not interested in the business; and more than that, it is made a public record. Now, if employers have anything they don't want the public to know they don't want that dispute with labor to get before this

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body, and labor realizes it takes time, and so labor and capital, to avoid litigation, get together and formulate working rules, and they agree on the manner of adjustment of differences, and they appoint their working committees, and so without any litigation labor has got its rights and capital proceeds to produce the things that are necessary for human life, and everything goes on smoothly; while to-day there is no such motive as that.

So I say this bill, while it won't produce the millenium, will encourage all those methods of conciliation and arbitration that Mr. Walsh was talking about, and was talked about by the eloquent speaker this forenoon. Mr. Walsh told us his experience with William Howard Taft upon the mediation board, or the war labor board, whatever it was. I remember of one instance I read in the newspaper—a Kansas City newspaper. The war labor board made an order recommending an increase of wages to the employees of the Kansas City Railways Company, men who ran the cars, worked in the shop; and as I remember it, they went farther than that and recommended an increase in fares to meet it. But over in Missouri, as it is in Kansas, the street-car company can't raise its fares whenever it wants to; it is regulated by law—got a little of that state socialism that Frank Walsh talks about over in Missouri, and they can't raise the fares whenever they please. So they can't raise their fares and said they couldn't raise their rates. They had to go before the Missouri commission, but it took a long time. They couldn't get the wages and they had a strike.

Now wouldn't it have been better if the government had had some kind of law like this, when in a crisis like this the board could have acted and gone in there and said: "This is what ought to be done, and now go ahead and do it." The argument Mr. Walsh put forth is an argument in favor of this bill. He admits something like that is necessary. Why not put it into law?

Now, I want to talk a minute about that penalty. I don't know of any law on the statute books that would fit this case, because there is no law now to prevent men to conspire to bring on a strike that I know of. The President has said the right to strike is inalienable. And I think it is yet, and I agree with Frank Walsh in that. I will tell you what I think about that in a few words. I think when Judge Gary refused to meet his workmen in order to hear their complaint and in an effort to compromise and compose their differences, when he said: "I haven't got anything to arbitrate and won't see you"; and when he said to those steel workers, "You can't come in here with Foster. I will treat with my own men, but won't with Foster," when he did that he committed an act of tyranny that ought not to be tolerated in a free country. Now I can present the other side of it to you when I say that Mr. Lewis—if that is his name, the president of the Mine Workers' Union of America, when he served notice on the coal companies that he must have a six-hour day, a five-day week and a sixty per cent increase in wages on or before the first day of November, 1919, and if he didn't get it he would call out half a million men on a strike and put this nation up against the worst coal famine known since time began—he committed a crime, a moral crime. It wasn't a legal crime, because we

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didn't have this kind of law on the statute books, but it was a moral crime and one that ought not to be tolerated in this or any other country.

Now I am going a little farther and say you have got no right, no moral right, to take away the laboring man's right to strike unless and until you give him a better remedy. You study that over, all of you. I am making a little labor speech now, Uncle Jake. You have no right to take away the laboring man's only weapon unless you give him a better one. Why, I have lived in a community in which it was necessary to carry a revolver. I didn't like it very well and didn't stay there very long, but it was necessary and I carried one—because the law didn't protect me. It was down in Mexico where they don't have any law of any kind. Now we have passed a statute in which we make it a crime for a man to carry concealed weapons. We have a right to do that as a state because we had surrounded every citizen by the greatest protection that ever was known, the protection of Anglo-Saxon law guaranteeing Anglo-Saxon liberty and justice, and he doesn't need his weapon, and we had a right to say to him, "You can't have it." We had never given labor a weapon of self-defense, so we had to let labor carry a gun, that is, the right to strike; and if you can't give labor a better weapon, for God's sake don't take the only weapon it has away from it. You are offering labor a weapon which makes the old weapon unnecessary. You are offering it a legally constituted tribunal composed of impartial judges and all the machinery necessary to give free and even-handed justice, with power to enforce against the employers the duty of paying a fair wage, of granting fair hours of labor, and good, moral and healthful surroundings while they are engaged in that labor; and the bill says so in that many words. And when you have given labor that other weapon, when you have given it a court to which to go and surrounded it by the protection of law, you have got the same right to take away the weapon of the strike that you have to make a law preventing me from carrying a concealed weapon; and you have gone farther toward the establishment of industrial peace; you have gone farther to insure to labor a fair reward; you have gone farther to insure to every laboring man the right and ability to bring up his family, to educate his children and to give them good, moral and educational surroundings, than any state or nation has done before in all the records of time. And Kansas again has led the world.

Now, I am going to tell you just one more thing and then sure I will quit. On that penalty proposition—I am going to tell you two things—no threat is made. If you will study the bill no threat is made to any man who obeys the law. The same kind of a penalty is contained in the public utilities law with reference to public utilities who falsify their records, or anything of that kind. And as the lawyer from Chautauqua county said here a little bit ago: "You can't enforce any law against bad people unless it has a penalty." I lived in the country when I was a boy, in a timber country, and the plague of my life was that I couldn't get anywhere far enough away from a good place for my father to cut a sprout, and if I do say it, when I was at home I was a pretty decent sort of a boy most of the time. You can't always get along by the golden rule. Now, good Uncle Jake went down to Washington to see his good friend, the altruistic Alex Howatt. Uncle Jake went down with his

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heart full of love and Christian charity, and he asked his friend Alex Howatt—he said, I imagine, about like this: “The governor has taken over the coal mines and you don’t have to work for the operators. The people are freezing and some hospitals don’t have coal and the schools are closing. Now let us go back and dig coal.” And he talked affectionately and no doubt told him about the golden rule, the sermon on the mount, and those other beautiful sentiments he expressed this morning. But he didn’t get anywhere. He wasn’t close enough to the place where he could cut a sprout. That is all that was the matter with him. This little bill here provides the sprout. If you pass it without the penalty clause—I hope you will pass it without it if you can’t with it—the Court of Industrial Relations and we, as citizens of Kansas, the next time a great strike comes up of the character of the coal strike, will be going around, like Uncle Jake, and talking to them about the golden rule, but we won’t get any coal and we won’t get any service.

Now I want to talk to you seriously in conclusion. I think this is the most serious time in the history of this republic outside of the first three years of the civil war. I bar no other period. The statement by Mr. Walsh that there is no danger of bolshevism goes contrary to the known facts. The government of the United States is hunting down, arresting, putting in jail, and deporting thousands of these agitators, and I don’t believe they ever will get near all of them, because some of them are too smart to be caught. We are challenged by a soviet government, we are confronted by a condition where a considerable portion of people in this country say that their first duty is not to the government of the United States, but to some other government, a government within a government: a government that is more powerful than the government of the United States, a government that demands their first loyalty. There are too many of them who believe that. And many of them are deceived by false statements, by appeals to prejudice and passion. What we need to do is to reconsecrate ourselves to the principles of the founders of this republic, to reestablish the loyalty that we ought to have had all the time, to learn from the experience of recent years, when our loyalty was put to the test, that loyalty to the government and to the United States is the first requisite, and no man who owes a higher loyalty to any other government or institute has any right to live in this country. They never will deport enough of them. Any man who says: “My first duty is to my union, or to my church, even, or to my lodge—I owe no allegiance to the government of the United States nor to the state of Kansas that I will not freely set aside if my union, lodge, or church tells me to”—no man who believes in that is a good citizen. No man who acts in this manner should be granted the protection of the law which he despises, and no penalty that you can impose upon that kind of a man is too severe.

I want to tell you another thing: If we believe in democracy, if we believe in the perpetuity of that government for which the fathers of the revolution shed their blood, if we believe in the re-united union, which sprang from the bloody fields of the civil war, if we believe in making the world safe for democracy, if we believe in making democracy triumph in the United States of America, we have got to fight. We can’t do it by folding our hands and keeping our mouths shut. Frank Walsh says there

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is no politics—no labor union is indulging in politics—but I have a letter in my pocket, which I am not going to read, but will read one part of it. It is addressed to one of the members of this body, signed by what purports to be a committee of the labor union: “We have also resolved not to support statesmen in the future who will endorse or work for anti-strike legislation.” That is not politics? But it doesn’t get them anywhere. I believe, gentlemen, that even the Senators and Representatives who come from the regions most affected will vote their convictions without regard to that threat. But it is politics and can’t be gainsaid. I don’t know what they will do in Missouri. I wish Missouri well. I don’t know what they will do in Arkansas, nor Colorado, but I believe I know what Kansas will do when it comes to a question of surrendering American democracy to the soviet, or fighting for it—Kansas will fight!

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