POSTMASTERS

CALIFORNIA

Maude Cunningham, Goleta.
Joseph A. Wilson, Manteca.

COLORADO

Carl A. Erickson, Monte Vista.

IDAHO

Elmer H. Snyder, Filer.
Allan H. Smith, Roselake.

IOWA

George F. Mitchell, Coin.
Elizabeth O'Reilly, New Albin.
Clarence C. Stoner, Nora Springs.

KENTUCKY

Lora V. Combs, Hardburly.

NEW JERSEY

Ellen E. Showell, Absecon.
Mary E. Cubberley, Hamilton Square.
Elizabeth D. McGarrey, Laurel Springs.
Edward C. Francois, Union City.

NORTH CAROLINA

Anna W. McMinn, Pinebluff.

OKLAHOMA

Roy Patton, Ames.
Frank A. Smith, Byars.
Arthur D. Hartley, Cardin.
Laura M. Hopkins, Woodward.

PENNSYLVANIA

Robert P. Habgood, Bradford.

WEST VIRGINIA

Emerson E. Deitz, Richwood.

HOUSE OF REPRESENTATIVES

THURSDAY, *February 16, 1928*

The House met at 12 o'clock noon.

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

God of yesterday, to-day, and forever, we know that Thy mercy underlies the spacious earth around. The divine life in humanity is the supreme test that we may rise above our present limitations. As the problems of government are with us, help us to solve them with patience, gentleness, and brotherly love. Let our moderation be known among all men, desisting from self-praise, self-glorification, and invidious comparisons. Spare us from becoming a torment of our own ambitions and a prey of our own untamable desires. Guide us, for we are needy; help us, for we are weak; deliver us, for the way is uncertain; and save us lest we fall. Through Jesus Christ our Lord. Amen.

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

BILLS PRESENTED TO THE PRESIDENT

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that this day they presented to the President of the United States for his approval bills of the House of the following titles:

H. R. 278. An act to amend section 5 of the act entitled "An act to provide for the construction of certain public buildings, and for other purposes," approved May 25, 1926;

H. R. 3926. An act for the relief of Joseph Jameson;

H. R. 6487. An act authorizing the Baton Rouge-Mississippi River Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Mississippi River at or near Baton Rouge, La.;

H. R. 7009. An act to authorize appropriations for construction at military posts, and for other purposes;

H. R. 7916. An act authorizing the Madison Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near Madison, Jefferson County, Ind.; and

H. R. 9186. An act authorizing the Sistersville Ohio River Bridge Co., a corporation, its successors and assigns, to construct, maintain, and operate a toll bridge across the Ohio River at or near Sistersville, Tyler County, W. Va.

ADDRESS OF HON. EDWARD E. ESLICK, OF TENNESSEE

Mr. BYRNS. Mr. Speaker, I ask unanimous consent to print in the RECORD a very interesting address by my colleague, Mr. ESLICK, delievered over the radio February 15. It is an able address and should be read with pleasure and profit by everyone.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

Mr. BYRNS. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

THE AGRICULTURAL SITUATION

I am to talk for a few minutes on the agricultural situation. January, 1921, saw fewer mortgages on farm lands in the United States than at any time within half a century. All products during and following the war brought high prices. Really, all kinds of business in the United States was financially in good condition when the collapse came in 1920.

There is an old adage, "Money talks." If this be true, the farmers of the country and money have not been on speaking terms since 1920. Whose fault is this? Recently a large landowner and wheat grower from Kansas, testifying before the Interstate Commerce Commission, said: "We have some good farmers, but we have a lot of poor ones. Most of these unsuccessful ones buy automobiles on the installment plan before they get their crops harvested. Any lack of success they have is due to laziness, shiftlessness, and improvidence. On my own farm I do everything with machinery and tractors. I have not a single horse or mule on the place."

The average farmer of the country is not able to have the latest improved machinery. Nor can the average farmer of the country produce his crop without horse stock. No more can a dairy be operated without cows than a cotton farmer cultivate his crop without mules. This utterance is a slander on the farmers of America!

The answer to this statement is, that only 4 per cent of the farmers of the world live in America. Yet this 4 per cent of the world's farmers produce 7 per cent of the world's corn, 60 per cent of its cotton, 50 per cent of its tobacco, 25 per cent of its oats, 20 per cent of its wheat, 15 per cent of its barley, and 11 per cent of the world's potatoes. Of the seven articles most needed and used by man the 4 per cent of American farmers produce nearly 36 per cent of the world's output. Branded as lazy and shiftless, the American farmer on an average produces nine times as much as the average world farmer.

The American farmer is not shiftless and lazy. He produces too much. The issue now is to keep from producing a surplus and, if produced, to prevent it from controlling the price of the balance of his crops. We will always have the question of surplus and how to dispose of it at fair prices. There are 970,000,000 acres of land in the United States subject to cultivation, yet in 1926 only 328,000,000 acres of these lands were under cultivation. At the present rate of productivity, if all of our land subject to cultivation was producing, this country alone could almost feed and clothe the teeming millions of the world.

The financial journals tell us that 1926 and 1927 were the most prosperous peace-time years our country has known. That our earning capacity has been greater and wealth has accumulated faster than at any other peace time in our history. Nearly one-third of our population is agricultural. The gross income of our country last year was nearly $95,000,000,0000. Yet the agricultural population—one-third in numbers—received only 10 per cent of this income. From Crops and Markets, July, 1927, a Government publication, it is stated that between January 1, 1921, and January 1, 1927, agricultural invested capital declined $15,000,000,000, while the corporate wealth of America increased $35,000,000,000. Agricultural invested wealth in 1926 and 1927 earned only 3½ per cent each year. Invested corporate wealth earned 13 per cent yearly. The earnings of the farmer were on the reduced investment. The earnings of corporate wealth were on increased values.

That I may give you the real picture of the farmer's condition, I want to borrow from the speech of the Hon. JAMES W. COLLIER, of Mississippi, one of the ablest and most conservative of southern Representatives. In the House he recently said the flood "interrupted over 3,000 miles of railroad transportation, flooded over 12,000,000 acres of land in 174 counties in 7 States." As to the ability of this great farming section to bear its part of rehabilitation, he said: "There is $770,000,000 invested in mortgages on land and in bonds, and $45,000,000 is still outstanding of levee bonds. Now its assessed valuation so bonded and so mortgaged aggregates $815,000,000." The picture is black. The land in 174 counties in 7 States mortgaged and encumbered to its full assessed value. The world has no finer lands than the great Mississippi Valley—rich as the Valley of the Nile.

I do not believe that the farmer has been intentionally destroyed by other lines of business and industry, because he is the producer of the two things that all peoples must have—food and clothing. On the other hand, he is the greatest consumer of the products of other lines of industry and trade of any single class in the country. The farm body is large—more than 7,000,000 farmers engaged in the different kinds of agriculture. It is impossible to organize all of them in co-

operation so as to control production and marketing. Industry, generally speaking, is constituted of much smaller bodies. They can and do organize for self-protection. Groups of industry have interlinking interests. They help each other for mutual safety and protection. Always the purpose is to make more money. In the end the combination puts the strangle hold upon the unorganized farmer, who is unable to protect himself.

That the farmer has asked aid through legislation is of recent origin. Seven years ago the corn farmers of the West began the agitation for Federal farm relief. From bad crops and low prices this demand extended to the wheat producers of the West; then to the livestock people; and finally when the cotton farmer was upon his knees and his crop was bringing 60 per cent of the cost of production, he, too, joined hands with his unfortunate brethren and turned his face toward Washington and asked that the cotton interests should be cared for.

We are told that farm relief legislation is impossible. We are further told that the farmer can not be benefited by legislation. Nearly all lines of industry have been taken care of by legislation. The manufacturer has his subsidy in the form of a tariff. Labor has increased its wages through the naturalization laws. The corporate wealth of the land engaged in interstate commerce is permitted to charge a rate sufficient to make reasonable earning on its invested capital; when this is denied by the Interstate Commerce Commission they go to the Federal courts, and almost invariably relief is granted. The effect is, business engaged in interstate commerce is guaranteed a fair return on the investment. The same rule applies to intrastate business through the public utilities commissions. Banks throughout the land, both State and Federal, are permitted to charge a rate sufficient to make a fair return on their capital. And so on throughout the entire lines of business, enterprise, and trade. But the farmer has no guaranty. He is advised to labor and to wait. And he is still laboring to get out of the ditch—patiently waiting. When he makes a demand, it is branded as economically unsound and unconstitutional. From the great business interests of the land, entrenched and protected by favored and unfair legislation, every piece of progressive legislation is assailed as unsafe, unsound, and unconstitutional. Monopoly invokes the Constitution as the guillotine to behead and destroy all progressive legislation.

For one, I do not believe that prosperity can be restored to the farmer by a single act of Congress. But there must be a beginning, and it should be in good faith to better the farmer's condition. I was the first from my State, and, in fact, one of the first southern Representatives, to declare for the McNary-Haugen bill in the first session of the Sixty-ninth Congress. I did not think and do not now believe that this bill would give complete relief to agriculture. But it is the best bill offered, with a chance of passage.

It is in the right direction. I am willing to try it and, by experience, perfect it. If I could write the farm relief bill, it would differ from all the bills before the House committee. My thought is to reduce the tariff one-half on the things, and the material which goes into the things, the farmers use. I would materially reduce the transportation charges on his products. Then I would back cooperative marketing with enough of the public funds to establish cooperation between the producer and the consumer, where supply would meet demand at a fair price with a reasonable profit to the producer. The difference in price from producer to consumer is too great. The article which brings $1 to the producer is delivered to the kitchen door of the consumer at $3.

Farm legislation was defeated in the first session of the Sixty-ninth Congress. The McNary-Haugen bill was passed in the last session of that Congress and vetoed by the President. He assigned many reasons for the veto. Unconstitutionality of the equalization fee was stressed. Farm relief is knocking again at the door of Congress. Many views are expressed at the hearings before the Agriculture Committee of the House. The West and South are agreed that farm relief is badly needed. But there is a great diversity of opinion as to the kind of legislation needed. One line of thought is for cooperative marketing financed by and under Government control. Another is the debenture plan, the payment upon exports rather than the tariff as the yardstick. But the real struggle is over the McNary-Haugen bill. Practically all the objections raised to this measure by the President have been taken from the present bill. The debatable issue now is the McNary-Haugen bill, with or without the equalization fee. What the result will be no one knows. I believe that if the McNary-Haugen bill is reported to the House, either with or without the equalization fee, it will pass. If with the equalization fee it will meet a veto at the hands of the President, if he is to remain consistent.

The Farm Bureau Federation and almost all allied and kindred farm organizations are demanding the passage of this bill with the equalization fee. And at the present time my information is that the Agricultural Committee is favorable to the equalization fee.

I can not get what I want in the way of a farm bill. I believe the farmers are entitled to relief. I shall support the best measure offered which has a chance of passage—the McNary-Haugen bill, if reported to the House. Legislation is never what any one Congressman or Senator wants. It is the result of discussion, concession, and compromise. Any farm bill which shall meet the approval of the two Houses—the Senate and the House—must be one of compromise, representing the consensus of opinion chiefly of Representatives and Senators from agricultural sections—the West, Middle West, and South. If the President vetoes the bill, I do not believe it can be passed over his veto.

Whatever else that may be said, the fight is on for relief legislation for agriculture. It is here to stay until it obtains. If this Congress denies the farmer relief, he will be back here at the next Congress, and the battle will continue until his rights are recognized and he is placed upon the same basis as other business and industry. This great class of our citizenship asks no advantage. They demand a fair deal and an equal opportunity. These are the basic rights of every business man. They are now denied to the farmer. No issue is ever settled until it is settled right. The man, the indispensable man, whose labor produces the food and clothing of mankind, is in distress. He is appealing to Congress not for favors but for fairness—that equal and exact justice may be done him. He asks nothing more. He will be satisfied with nothing less.

PERSONAL EXPLANATION

Mr. EATON. Mr. Speaker, I ask unanimous consent to make a personal statement for one minute.

The SPEAKER. The gentleman from New Jersey asks unanimous consent to address the House for one minute. Is there objection?

Mr. EATON. Mr. Speaker, last evening I had the distinguished honor of addressing the Electrical League in this city, and this morning the Washington Post does me the honor or dishonor to print scare headlines as follows:

Congress power critics brutes, EATON asserts.

I wish simply to say that I never used the word, thought of it, or was within a thousand miles of it in connection with power critics or anyone else.

I am opposed to any form of political investigation of the power industry or any other industry in this country, but I am in favor of any necessary investigation that is designed to build up and strengthen the power business, which constitutes the keystone in our industrial structure and that will advance our general industrial and economic prosperity.

I made the speech and expressed myself, as I thought, clearly. I have had some experience in the use of words and I decline to be held responsible for any moronic misinterpretation made by others. [Laughter and applause.]

Mr. BLANTON. Will the gentleman yield?

Mr. EATON. No; I have yielded too much already. [Laughter.]

MIDDLE RIO GRANDE CONSERVANCY DISTRICT AND THE PUEBLO INDIANS

The SPEAKER. The Chair will recognize the gentleman from New Mexico under a special order for 15 minutes.

Mr. MORROW. Mr. Speaker, I listened very attentively to the remarks of the chairman of the subcommittee of the Appropriations Committee which he delivered in this House yesterday relative to the passage of the bill (S. 700) which was substituted by me in this body for House bill 70, and amended by the gentleman from Michigan [Mr. CRAMTON], concerning which there has been much discussion on the outside as to the merits of that legislation.

I want to say in the beginning that I believe the gentleman from Michigan is a firm friend of the Indians, with a desire to legislate in behalf of their development.

The legislation had its beginning in my State in order that one of the most important valleys in the State might be developed and reclaimed. New Mexico, or, as the gentleman from Texas [Mr. BLANTON] has frequently said, "little old New Mexico," is old and is new in its development. This legislation brings us back to the commencement of irrigation in that section of the United States. Irrigation began there not 100 years ago, but perhaps 1,000 or 2,000 years ago. Pueblo Indian lands, now included in this conservancy plan, have been indifferently irrigated for centuries. When the Spaniards first came into this section in 1535 they found the Indians irrigating their lands. History, taken from the archives of Mexico and of Spain, substantiate this statement. The Spaniards came into the State in 1541 and made a settlement therein in 1582. They learned from the Pueblo Indians the method of irrigation. We may safely say that the Pueblo Indians were the first irrigators of lands in the United States.

Both the Indians and the Spaniards had irrigated in this Rio Grande Valley through a series of years running back into the centuries. At one time the amount irrigated was estimated to be as high as 125,000 acres of land, including 8,346 acres of

Indian pueblo land. The land has become water-logged, alkaline, and requires drainage. The city of Albuquerque, which is the largest city in the State of New Mexico, and situated in what is known as the middle Rio Grande Valley, in order to reclaim this land formed a conservancy district under the laws of the State of New Mexico and patterned same after the conservancy districts that are now successfully operated in other portions of the United States. They did not come to the Reclamation Bureau or to Congress for funds to carry on their project, but they included in that conservancy district not only the town or city of Albuquerque but also the land up and down the valley, three other important towns, and several minor villages. In all, there are 210,000 acres of land within the district, of which 129,000 acres are to be drained and reclaimed. Included within this land are six Indian pueblos, with their parcels of irrigated land, interspersing white lands.

In order to reclaim and build their drainage canals it is necessary that these canals shall run through the Indian lands, and the Indian lands will be reclaimed thereby. The Indian lands, as I stated, have become water-logged, and the alkaline water has risen to the surface. The production upon these lands is not 25 per cent of normal production. The water-logged condition exists on all the acreage, including the original 8,346 acres of Indian land. The officers of the district came back to the Government, and through the Indian Bureau asked cooperation so that the Indian lands can be included in the plan of flood control and irrigation. A bill was passed in the last session of Congress appropriating $50,000 as the Government's share to survey the Indian lands under the supervision and control of the Indian Department of the Government. The district itself spent something like $300,000. It was found feasible to include the Indian lands. The district has fully complied with the law. Then, when the engineers' reports were made and found satisfactory, the district, through its representatives, came back to this Congress asking that legislation be passed to include the Indian lands, and that the Government through Congress advance, under its regulations and under contracts to be entered into by the department, the Indian proportionate part of the cost to reclaim said Indian land. The bill as presented was the outcome of the plan for legislation. It was not prepared by the Member of Congress on this side. It was not prepared by the Senator from New Mexico on the other side. It was prepared by the Indian Bureau, through its legal department, in conjunction with the officials of the conservancy district. This legislation proposed was brought to the Subcommittee on Appropriations, of which the gentleman from Michigan [Mr. CRAMTON] is chairman. I appeared before that committee. The Senator who introduced the legislation on the other side appeared. The bill was read, thoroughly discussed, every feature therein. It was the purpose of the Assistant Commissioner of Indian Affairs that there should be a gratuity of $500,000 in that bill. The bill as prepared contained that feature. After a discussion in that body a member of that committee from a western State, who has had great experience in Indian affairs, and who tries to protect the Government and at the same time protect the Indians, said, "You people have a gratuity in this bill." All the members of the committee recognized that fact, that there was a gratuity of $500,000 in the bill. The gentleman from Michigan [Mr. CRAMTON] and his committee made their position absolutely plain to Mr. Meritt, to the conservancy district officers, and to everyone present that Congress does not recognize, and had not recognized in any legislation for a period of years, a gratuity in legislation for the Indians, but had placed therein a reimbursable feature.

The bill was presented to the Indian Affairs Committees of the House and of the Senate and thoroughly discussed, but Mr. Meritt, Assistant Commissioner of Indian Affairs, still maintained the position that these Pueblo Indians are honest, faithful, moral Indians, and have not received any large funds from the Government, and that this gratuity should be allowed them. Every member of the committee, as I remember, including the chairman, the gentleman from Michigan, expressed his views. The gentleman from Michigan [Mr. CRAMTON] read his bill, and some of the members of that committee indorsed his position. When the bill was reported out from the House committee it was reported with the gratuity feature, and in that shape it came before you. It was reported out in the Senate in the same manner.

I recognized the fact that the gentleman from Michigan would offer upon the floor the amendment that was presented, and I want to say to you, as a friend of the Indians, as a citizen of New Mexico, representing that entire State in this body, that there never was fairer legislation than the legislation proposed by the amendment offered by the gentleman from Michigan for the Indians of my State. [Applause.]

Now, Members of the House, I will go further. In a conference held with Mr. Meritt, the Assistant Commissioner of Indian Affairs, the question was put to him, "Do you regard this bill with the amendment as fair to the Indians?" He replied, "There has not been a fairer piece of legislation in behalf of the Indians presented to the Congress of the United States within a period of 20 years." He was further asked, "Do you believe the reimbursable feature should be in there covering the part of the money advanced by the Government or that it be a gratuity given the Indians?" He said, "Since 1913 your Appropriations Committee of the House have put in the reimbursable feature in legislation of this kind."

Mr. Speaker, the attack that has been made on the legislation embraced in the amendments has been inspired by one John Collier, whom the gentleman from Michigan so aptly described yesterday. Only one purpose has prompted the attack—the question of notoriety, the question of publicity—so that the people who are putting up the funds to sustain Mr. Collier in a position to further create agitation among the Indians may continue to contribute to such funds.

Lawyers out in my State representing Indian societies have been telegraphing back here that the legislation is not proper and is not in behalf of the Indians. One of those lawyers is an upright honorable man, but he has a misconception of the action taken.

Referring back to the legislation and the bill as presented to your body upon the consent day. The bill was passed to include the amendment offered as a substitute by the gentleman from Michigan; I knew before the same was offered that the gentleman from Michigan was going to offer amendments. I had conferred with him, and his amendments were quite satisfactory to me. I thought they were right and proper and that they should be in the bill, and that the bill as so amended should be enacted. I have learned that on consent day you had better not get on the floor and talk about your bill. If your committee has acted upon it and you have a favorable report, you had better let your bill pass without any debate, because there are always present those who are ready to object and who are ready to discuss, and there are those also who are interested in other bills that follow yours on the calendar. They become anxious, and if there is much discussion they are likely to call for the regular order, which is tantamount to an objection, and the result is that your legislation fails.

This legislation is absolutely vital to my State. The climatic conditions out there are very favorable to agriculture, by irrigation, inferior to none in the United States. They can raise five crops of alfalfa in a year. There are 200 growing days each year, and they can produce all kinds of fruits and vegetables. They can raise sugar beets. The 8,346 acres of irrigated Indian land that came with the Indians to the United States under the treaty of Guadaloupe Hidalgo remain to-day, as the gentleman from Michigan said, protected with a prior water right, and it will not cost the Indians one dollar to have that land reclaimed. The result will be that it will change the value of that land, which is now worth perhaps not to exceed $25 to $30 an acre, into land worth $150 or $200 per acre. But this bill and the action of this House included also the reclamation and irrigation of 15,000 acres of new land; land that had never been touched; that had never been plowed. That land is practically commons to-day, used for grazing, and the grazing fee is practically nothing, perhaps 3 to 5 cents per acre. The value of that land to-day does not exceed $5 or $10 per acre at the most.

The SPEAKER. The time of the gentleman from New Mexico has expired.

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for an additional 10 minutes. I am sure the House is very much interested in the statement the gentleman is making.

The SPEAKER. Is there objection?

There was no objection.

Mr. MORROW. These 15,000 acres will at once receive a value under reclamation of from $150 to $200 per acre. The original bill, S. 700, carried a charge of $67.50 per acre against the 15,000 acres of land and the gratuity of $500,000. The amendment of the gentleman from Michigan provides that the 8,346 acres that the Indians had occupied and used and irrigated for centuries, which had become practically useless, should not be included in any lien, should be exempted from lien for all time, but that the 15,000 acres of new land to be developed and to be reclaimed should bear a reimbursable charge; this land to be leased and the lease money paid to the Government at some time in the distant future. Is there anything unjust in that?

There are 3,500 Indians, including men, women, and children in these six pueblos. There are only about 700 heads of

families. They have 8,346 acres of land, and divided among the heads of families it will give 11.8 acres of irrigated land without any lien to each head of a family. I attended a conference of the Reclamation Committee this morning and they were discussing how much acreage should go to a family under a reclamation project. It was suggested that it depended upon the ability of the family, and would run from 10 to 20 and 40 acres, but not to exceed 80 acres in a unit.

Another thing that presented itself in the circular sent out by Mr. Collier was that three of these pueblos have not sufficient irrigated land upon which to make a living. Mr. Speaker, the Indian Bureau is the guardian of the Indians. If those Indians need additional land they will be the ones to receive first recognition in so far as the newly reclaimed land is concerned. It was represented by Mr. Collier that the Indian Defense Association, which he represents, desired that the new lands be exempted, where cultivated by the Indians, from any charge whatsoever. The Indian Bureau of the Government through its agency can lease the land needed at a nominal price of say $1 or $2 per acre, which it will gladly do, if conditions so require, taking from them no rights whatever.

There is absolutely no radical change in the legislation passed by the House other than with respect to the $500,000 gratuity to the Indians, and the Indians themselves were not clamoring for that. They were satisfied with the legislation, but certain people started to lobby, as the gentleman from Michigan said, and put out certain reports, and then wanted all this land absolutely free.

The gentleman who is lobbying on the outside presented this statement to me. He said:

> Why change, in dealing with these Pueblo Indians, from the fact that this Government heretofore has never made a charge or made it reimbursable until this legislation?

That is absolutely not true, as the records of this body will disclose.

Now, Members of the House, in conclusion I want to say that the committee visited my State this year, led by the gentleman from Michigan [Mr. CRAMTON] as the chairman. They visited every Indian pueblo that they could reach within the time. We have in the State of New Mexico to-day two schools, one at Albuquerque, with 850 Pueblo children, bright, active, intelligent children; in fact, I believe it is one of the best Indian schools in the United States, at least in the Southwest. In the Indian school at Santa Fe we have 450 Indian pupils. Both of these schools were well taken care of in the funds provided in the Interior Department appropriation bill. Besides those two boarding schools we have other day schools. The committee was sincere in their work in New Mexico in behalf of the Indians. Each member of that committee, as I understand, indorses the position of the gentleman from Michigan. That position, I understand, is the position of your Appropriations Committee, and I, as the Member from New Mexico, say to you Members here that I stand squarely with them for honest, fair, and just legislation in behalf of the Indians, and for honest, fair, and just legislation which will permit my State to go forward, and carry along in this conservancy district the Indians whom Congress has declared citizens, and whom we should bring as soon as possible into the affairs of this Government, and deal with them in the States alone and not in the National Government. [Applause.]

DAWES AND HOOVER

Mr. HOWARD of Nebraska. Mr. Speaker, may I speak for about 15 minutes?

The SPEAKER. The gentleman from Nebraska asks unanimous consent to speak for about 15 minutes. Is there objection?

Mr. CLARKE. Is that the subject or the time limitation?

The SPEAKER. Is there objection?

There was no objection.

Mr. HOWARD of Nebraska. Mr. Speaker, the time was when the duties of a Member of the Congress were wholly congressional. So many new duties have been thrust upon a Congressman now that I want to talk just a little bit on that subject. You know, and most Members probably do know, that a Congressman now is expected to be able to tell every one of the home folks who shall write to him on the subject just who is going to be nominated for President by each of the great political parties. I have a great many inquiries along that line, and I make the best answer I can. I have an answer now in my mind with reference to an inquiry regarding the probable nomination at Kansas City in June. Perhaps I might best answer that question, Mr. Speaker, by asking you if you know how smooth is oil? [Laughter.] I do not know, but I do know that Vice President DAWES is as smooth in the political game as my own conception of the smoothness of oil. [Laughter.] Nominally CHARLEY is pledged to promote the candidacy of Governor Lowden for the Republican presidential nomination. Secretly his ablest friends are grooming CHARLEY for the place.

Here is the situation: About one year ago this very week there was held in Washington a conference attended by representatives of the mighty moneyed interests which financed the campaign which led to the nomination of President Coolidge in 1924, and which elected him in that year. The conference regarded Coolidge as first choice for his own succession in the White House, the conclusion being unanimous that those mighty moneyed interests could not find one more faithful to their general cause than President Coolidge had been. But there was an obstacle in the way. That obstacle was the strong sentiment among the American people in opposition to any man filling the office of President three terms in succession. The big men in that conference were not there for the purpose of play. They were there to pave the way for the election of a President who would be as faithful to their interests as President Coolidge had been. And so they decided it would be dangerous to go up against the anti-third-term sentiment with Coolidge as a candidate. Having reached this decision, the conference began casting about for one man best calculated to serve their interests and capacity as President. Many were discussed, but at last the conference voted unanimously in favor of making Herbert Hoover their candidate for the Republican nomination, with the understanding that in due time they would have President Coolidge announce that he would not be a candidate.

This program has been carried out to the letter. In due time President Coolidge announced that he would not be a candidate for a third term. Immediately the great newspapers and magazines, largely owned or controlled by those moneyed interests which supplied the money to nominate and elect Mr. Coolidge in 1924, began spreading the most scientific propaganda in behalf of Hoover, and so successfully that they now have all the other announced candidates on the run.

But now another danger sign has appeared. The big money folks in charge of the Hoover campaign have discovered that in all the Middle West agricultural States the opposition to Hoover is so bitter and so unrelenting as to make very questionable the ability of Hoover to carry those States as against any man the Democrats might nominate against him, provided the Democratic nominee should be friendly to the cause of agriculture.

Now comes CHARLEY DAWES.

CHARLEY DAWES is as fondly loved by big money as is Herbert Hoover, save in one particular. Speaking in my own bucolic language, he has a tough mouth. He might take the bit in his teeth if he should reach the presidential chair and stage a runaway. Of course, he would not run far, but even a little runaway would be annoying to the big money folks who should put one of their own in the presidential chair.

With that one objection brushed away, CHARLEY DAWES will be just as satisfactory to the big money folks as Herbert Hoover could be, and it begins to appear that somebody is doing a little brushing. The higher rises the tide of opposition to Hoover in the Republican agricultural States of the Middle West the nearer CHARLEY DAWES comes to falling heir to the influences which up to this time have decreed that Hoover must be the nominee. No doubt about CHARLEY DAWES being one of the best sweethearts of the general Wall Street interests, and no doubt about him being far stronger among the agricultural elements than Hoover. And so it is easy to estimate the possibility of the ditching of Hoover by the big money folks and the throwing of their strength to DAWES. Not because Hoover is not 100 per cent for the Wall Street program, but only because of the fear that the bitter enmity of the agricultural folks might lose some of those Republican Middle West States to the Republican Party if a proved enemy of the general agricultural interests should be the nominee, and certainly the proof is at hand to show that Mr. Hoover would not favor any legislation for the welfare of agriculture unless such legislation should have been written in the gold room of the house of Morgan.

A year ago CHARLEY DAWES must have looked with a prescient eye down through the days and there discovered the anti-Hoover sentiment among the American farmers. He knew then that Hoover would be the first choice of the money folks who brought about the nomination and election of Coolidge in 1924. And right here Dawes adopted a little program all his own, a program which is leading the observers of political curves to regard CHARLEY DAWES as "smooth as oil." At first he began making a few innocent "agricultural gestures."

They were kindly received. Day by day he grew more aggressive in behalf of legislation in behalf of agriculture. And now, why, at this very moment some of the most astute political observers in the United States do not hesitate to say that the big moneyed folks will ditch Hoover before the opening

prayer shall be offered in the Kansas City convention and proceed to start CHARLEY DAWES on the way from the chair of Vice President of the Republic to the chiefest chair in the White House.

What is CHARLEY DAWES saying about it?

He says he is for Lowden.

King *Richard* said he loved his nephews, but he killed them in the tower.

CHARLEY DAWES says he loves Lowden. At Kansas City he will love DAWES more.

As between Herbert Hoover and CHARLEY DAWES I am 1,000 per cent for DAWES. May the gods not compel me to make a choice between the two. Both are sweethearts of the Morgan-Mellon group of moneyed interests. Both would be obedient to general Wall Street dictation, but Hoover would be more obedient than DAWES. [Applause.]

GENERAL CLAIMS BILL

Mr. TILSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 9285) to provide for the settlement of claims against the United States on account of property damage, personal injury, or death.

Mr. BLANTON. Mr. Speaker, I understood the committee wanted a quorum present.

Mr. TILSON. We can have a vote on going into committee.

Mr. BLANTON. All right.

The question was taken.

Mr. BLANTON. Mr. Speaker, I make the point that there is not a quorum present, and object to the vote on that ground.

The SPEAKER. Evidently there is not a quorum present. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 331, not voting 102, as follows:

[Roll No. 34]

YEAS—331

Abernethy	Clarke	Garrett, Tex.	Kvale
Ackerman	Cochran, Mo.	Gasque	LaGuardia
Adkins	Cochran, Pa.	Gibson	Lanham
Aldrich	Cohen	Gifford	Lankford
Allen	Cole, Iowa	Gilbert	Lea
Allgood	Collier	Glynn	Leech
Almon	Collins	Golder	Lehlbach
Andresen	Colton	Goldsborough	Letts
Andrew	Combs	Goodwin	Lindsay
Arentz	Connally, Tex.	Gregory	Lozier
Arnold	Cooper, Ohio	Green, Fla.	Luce
Auf der Heide	Cooper, Wis.	Greenwood	McClintic
Ayres	Corning	Griest	McDuffie
Bacharach	Cox	Griffin	McKeown
Bachmann	Crail	Guyer	McLaughlin
Bacon	Cramton	Hadley	McLeod
Bankhead	Crisp	Hale	McReynolds
Barbour	Crosser	Hall, Ill.	McSwain
Beck, Wis.	Crowther	Hall, Ind.	McSweeney
Beedy	Cullen	Hall, N. Dak.	Madden
Beers	Curry	Hammer	Magrady
Begg	Dallinger	Hancock	Major, Ill.
Bell	Darrow	Hardy	Major, Mo.
Berger	Davenport	Hare	Manlove
Black, N. Y.	Davey	Harrison	Mansfield
Black, Tex.	Davis	Hastings	Mapes
Bland	Denison	Haugen	Martin, La.
Blanton	De Rouen	Hawley	Martin, Mass.
Bloom	Dickinson, Iowa	Hersey	Mead
Bowles	Dickinson, Mo.	Hickey	Menges
Bowling	Dickstein	Hill, Wash.	Merritt
Bowman	Doughton	Hoffman	Michener
Box	Douglas, Mass.	Hogg	Miller
Boylan	Doyle	Holaday	Milligan
Brand, Ga.	Drane	Hooper	Monast
Brand, Ohio	Drewry	Hope	Moore, Ky.
Briggs	Dyer	Howard, Nebr.	Moore, Va.
Brigham	Eaton	Howard, Okla.	Morehead
Browne	Edwards	Huddleston	Morgan
Browning	Elliott	Hudspeth	Morin
Buchanan	England	Hughes	Morrow
Buckbee	Englebright	Hull, Morton D.	Murphy
Bulwinkle	Eslick	Irwin	Nelson, Me.
Burtness	Evans, Mont.	James	Nelson, Mo.
Burton	Faust	Jeffers	Nelson, Wis.
Busby	Fisher	Jenkins	Newton
Bushong	Fitzgerald, Roy G.	Johnson, Ind.	Niedringhaus
Butler	Fitzgerald, W. T.	Johnson, Okla.	Norton, Nebr.
Byrns	Fletcher	Johnson, Tex.	O'Brien
Campbell	Fort	Johnson, Wash.	O'Connell
Cannon	Frear	Jones	Oldfield
Carew	Free	Kading	Oliver, Ala.
Carss	French	Kahn	Oliver, N. Y.
Cartwright	Frothingham	Kearns	Palmisano
Casey	Fulbright	Kelly	Parker
Chalmers	Fulmer	Kemp	Parks
Chapman	Furlow	Ketcham	Peery
Chase	Gambrill	Kiess	Perkins
Chindblom	Garber	Kincheloe	Porter
Christopherson	Gardner, Ind.	King	Pou
Clague	Garner, Tex.	Kopp	Prall
Clancy	Garrett, Tenn.	Korell	Quin
Ragon	Simmons	Tatgenhorst	Wason
Rainey	Sinclair	Taylor, Colo.	Watres
Ramseyer	Sinnott	Taylor, Tenn.	Weaver
Rankin	Sirovich	Temple	Welch, Calif.
Ransley	Smith	Thatcher	Welsh, Pa.
Reece	Somers, N. Y.	Thurston	White, Kans.
Reed, Ark.	Speaks	Tillman	White, Me.
Reed, N. Y.	Spearing	Tilson	Whitehead
Reid, Ill.	Sproul, Ill.	Timberlake	Whittington
Robinson, Iowa	Sproul, Kans.	Tinkham	Williams, Ill.
Robsion, Ky.	Stalker	Treadway	Williams, Mo.
Rogers	Steele	Underhill	Williams, Tex.
Romjue	Stevenson	Underwood	Wilson, Miss.
Rowbottom	Strong, Kans.	Updike	Winter
Sanders, Tex.	Summers, Wash.	Vestal	Woodruff
Sandlin	Sumners, Tex.	Vincent, Mich.	Woodrum
Schafer	Swank	Vinson, Ga.	Wright
Schneider	Swick	Vinson, Ky.	Wurzbach
Sears, Nebr.	Swing	Wainwright	Yates
Seger	Taber	Ware	Zihlman
Shreve	Tarver	Warren	

NOT VOTING—102

Anthony	Freeman	Linthicum	Sanders, N. Y.
Aswell	Gallivan	Lowrey	Sears, Fla.
Beck, Pa.	Graham	Lyon	Selvig
Bohn	Green, Iowa	McFadden	Shallenberger
Boies	Hill, Ala.	McMillan	Snell
Britten	Hoch	MacGregor	Steagall
Burdick	Houston	Maas	Stedman
Canfield	Hudson	Michaelson	Stobbs
Carley	Hull, Tenn.	Montague	Strong, Pa.
Carter	Hull, Wm. E.	Mooney	Strother
Celler	Igoe	Moore, N. J.	Sullivan
Connery	Jacobstein	Moore, Ohio	Sweet
Connolly, Pa.	Johnson, Ill.	Moorman	Thompson
Deal	Johnson, S. Dak.	Norton, N. J.	Tucker
Dempsey	Kendall	O'Connor, La.	Watson
Dominick	Kent	O'Connor, N. Y.	Weller
Douglas, Ariz.	Kerr	Palmer	White, Colo.
Doutrich	Kindred	Peavey	Williamson
Dowell	Knutson	Pratt	Wilson, La.
Driver	Kunz	Purnell	Wingo
Estep	Kurtz	Quayle	Wolverton
Evans, Calif.	Lampert	Rathbone	Wood
Fenn	Langley	Rayburn	Wyant
Fish	Larsen	Ruby	Yon
Fitzpatrick	Leatherwood	Rutherford	
Foss	Leavitt	Sabath	

So the motion was agreed to.

The Clerk announced the following pairs:

Until further notice:

Mr. Snell with Mr. Hull of Tennessee.
Mr. Graham with Mr. Driver.
Mr. Sweet with Mr. Carley.
Mr. Connolly of Pennsylvania with Mr. Aswell.
Mr. Beck of Pennsylvania with Mrs. Norton.
Mr. Leavitt with Mr. Sabath.
Mr. McFadden with Mr. Dominick.
Mr. Bacon with Mr. Gallivan.
Mr. Britten with Mr. Stedman.
Mr. Moore of Ohio with Mr. Kerr.
Mr. Pratt with Mr. Igoe.
Mr. Doutrich with Mr. Sullivan.
Mr. Purnell with Mr. Wingo.
Mr. Evans of California with Mr. Kunz.
Mr. Fenn with Mr. Larsen.
Mr. Hoch with Mr. Kindred.
Mr. Dowell with Mr. Tucker.
Mr. Rathbone with Mr. Hill of Alabama.
Mr. MacGregor with Mr. Miller.
Mr. Strong of Pennsylvania with Mr. Lyon.
Mr. Greene of Iowa with Mr. Mooney.
Mr. Hudson with Mr. Lowrey.
Mr. Watson with Mr. White of Colorado.
Mr. Johnson of Illinois with Mr. Shallenberger.
Mr. Wood with Mr. Connery.
Mr. Johnson of South Dakota with Mr. O'Connor of New York.
Mr. Stobbs with Mr. Canfield.
Mr. Kendall with Mr. Quayle.
Mr. Fish with Mr. Deal.
Mr. Palmer with Mr. Sears of Florida.
Mr. Dempsey with Mr. Fitzpatrick.
Mr. Burdick with Mr. Kent.
Mr. Kurtz with Mr. Wilson of Louisiana.
Mr. Anthony with Mr. McMillan.
Mr. Foss with Mr. Rayburn.
Mr. Knutson with Mr. Celler.
Mr. Wyant with Mr. O'Connor of Louisiana.
Mr. Sanders of New York with Mr. Rutherford.
Mr. Michaelson with Mr. Douglas of Arizona.
Mr. Wolverton with Mr. Steagall.
Mr. Freeman with Mr. Yon.
Mr. Maas with Mr. Jacobstein.
Mr. Boise with Mr. Montague.
Mr. Lampert with Mr. Linthicum.
Mr. Strother with Mr. Ruby.
Mrs. Langley with Mr. Moore of New Jersey.
Mr. Williamson with Mr. Moorman.

The result of the vote was announced as above recorded.

The doors were opened.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 9285, with Mr. LAGUARDIA in the chair.

The Clerk read the title of the bill.

Mr. PEERY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. PEERY: On page 2, in lines 8, 9, and 10, strike out the words "to consider, ascertain, adjust, and determine any claim liability for which is recognized under this section if the amount of the claim does not exceed $5,000," and insert in lieu thereof "to consider, adjust, and compromise any claim liability for which is recognized under this section if the amount of the claim does not exceed $3,000."

Mr. PEERY. Mr. Chairman and gentlemen of the committee, I want to say that in offering this amendment I do so with the utmost deference to the chairman and the other members of this committee. I have a very high regard for their ability and their statesmanship. I am in sympathy with the general purpose of this bill and with the objects sought to be accomplished.

If, as has been stated in the report of the committee, the machinery of Congress has broken down and does not properly function in the matter of determining these claims and adjudicating these claims, then the Congress should set up some machinery that will afford this relief to the people.

The bill proposes to confer jurisdiction upon certain existing tribunals for the adjudication of certain classes of claims, and to confer upon them authority to hear and determine these claims.

In brief analysis the bill proposes as follows:

First. To confer jurisdiction upon the Court of Claims to adjudicate all tort claims in excess of $10,000 for damage to property, with no limit as to the amount for which the Government may be sued.

Second. Concurrent jurisdiction is conferred upon the Court of Claims and the United States district courts to adjudicate all tort claims for damage to property in amounts from $5,000 up to $10,000.

Third. Jurisdiction is conferred upon the Employees' Compensation Commission to adjudicate all personal injury and death claims. A maximum amount for which suit may be brought for personal injury or death is fixed at $7,500.

Fourth. Jurisdiction is conferred on the head of each executive department and independent establishment to adjudicate tort claims for damage to property where the amount does not exceed $5,000.

Under existing law, which is the act passed in 1922, the heads of executive departments are now authorized to hear and settle claims up to $1,000. This bill proposes to extend their jurisdiction up to $5,000.

I think the bill goes too far in this respect, and it is to limit this jurisdiction to $3,000 that I offer this amendment.

I object also to the provision of the bill which confers upon the heads of executive departments power and authority to adjudicate these claims. I am quite willing for the heads of executive departments to be given the authority and the power to adjust and compromise claims up to $3,000, but I am not willing to confer upon the head of an executive department the right and power to adjudicate as a court the claim of any party against the Government.

The general purpose of this bill is for Congress to transfer the exercise of judicial functions to other jurisdictions. It is fundamental that any judicial tribunal should be fair and impartial, and when you confer upon the head of an executive department the power to adjudicate you are conferring the power of adjudication upon a partisan, because it is within his department that the basis of the claim arises—damage resulting from negligence on the part of some employee or agent of his department. I think to confer the power of adjudication upon the head of an executive department is not only wrong in principle, but will prove bad in practice.

Mr. McDUFFIE. Will the gentleman yield?

Mr. PEERY. Yes.

Mr. McDUFFIE. Suppose a claimant is not satisfied with the adjudication of one of these executive departments; what is his remedy?

Mr. PEERY. Under this bill he has to come back to Congress and present his claim and ask Congress to pass upon it.

Mr. McDUFFIE. And Congress or the committee will immediately say, "You have very little standing in court to-day because the department has already passed judgment on the claim."

Mr. UNDERHILL. Will the gentleman yield?

Mr. PEERY. Certainly.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. PEERY. Mr. Chairman, I ask unanimous consent that I may have five additional minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. UNDERHILL. You do not alter the situation one single iota by the passage of this bill?

Mr. McDUFFIE. Except you have a record staring you in the face.

Mr. UNDERHILL. The committee has such a record now in every instance.

Mr. PEERY. In answer to the gentleman from Alabama, I think the practical effect will be that when the claimant has gone before the head of an executive department and has submitted his claim and has obtained an adjudication or finding from that department, when he comes back to Congress, the practical effect will be that Congress will say to him that he has had his day in court.

Mr. RAMSEYER. Will the gentleman yield?

Mr. PEERY. I will.

Mr. RAMSEYER. What language in the bill does the gentleman think gives the department the power of adjudication in a judicial sense. I do not see much difference in the language to be stricken out and the language the gentleman offers to substitute.

Mr. PEERY. I will say to the gentleman that the bill as originally submitted, page 2, reads "exclusive authority is hereby conferred upon the head of each department to consider, ascertain, adjust, and determine." It does not use the word adjudicate, it is true.

Mr. RAMSEYER. The gentleman's amendment reads to "consider, adjust, and compromise."

Mr. PEERY. Yes; I leave out the word determine, which carries the idea of adjudication.

Mr. RAMSEYER. And it limits the amount to $3,000. I am in sympathy with that; I think $5,000 is a very large sum to put in the hands of a head of the bureau. We get a wrong idea of values here when we appropriate in millions and millions of dollars, but as applied to the individual $5,000 is a large sum of money, whereas collectively for the Nation it does not seem to be. I hope the committee will consider a lower limit.

Mr. PEERY. In that connection I would like to say that the amount under existing law which gives the Federal court jurisdiction is $3,000. Under this bill they propose to confer jurisdiction on the Federal court and the Court of Claims from $5,000 to $10,000.

Mr. RAMSEYER. In contract cases.

Mr. PEERY. Yes; and in torts you are introducing a new instrumentality in the determination of claims. Why not let the Federal court have jurisdiction, as it now has, in excess of $3,000, and limit the jurisdiction of the heads of the executive departments to $3,000 and then give concurrent jurisdiction to the Federal district court and the Court of Claims from $3,000 to $10,000?

This bill involves the transfer of the jurisdiction from Congress to other tribunals. The gentleman from Massachusetts [Mr. LUCE] in his address upon this bill some days ago was asked by me if he considered it wise in principle to transfer the exercise of judicial determination from the Congress to the executive departments, and his reply in substance was that in his Commonwealth originally the three functions—executive, legislative, and judicial—were exercised by the general court, but that they had gotten away from that. It took them 150 years to get away from it, and now the best line of thought was not to keep the legislative and judicial separate.

I do not agree with my colleague upon this proposition or upon this principle.

Mr. John Randolph Tucker, to whom the gentleman from Massachusetts refers in a most complimentary way, in his work on the Constitution in discussing the division of powers under the Constitution into the legislative, executive, and judicial departments, quotes from Baron Montesquieu's Spirit of Laws, as follows:

When the legislative and executive powers are united in the same person or in the same body of magistrates there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to execute them in a tyrannical manner.

Again, there is no liberty if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative the life and liberty of the subject would be exposed to arbitrary control, for the judge would be then the legislator. Were it joined to the executive power the judge might behave with violence and oppression. There would be an end of everything were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.

Then he says:

The influence of Montesquieu's maxim upon the Federal Constitution is not left to conjecture. Mr. Madison discusses this subject at length

in the Federalist and vindicates the Federal Constitution against any material violation of the maxim.

The right of the claimant whose claim does not exceed $5,000 to have an impartial tribunal to hear and adjudicate his claim is equal and coexistent with the right of the claimant having a claim in excess of $5,000 to have a fair and impartial judge. This smaller claimant does not get such tribunal under the proposal of this bill. Under the bill as proposed he must take his claim to a tribunal that is presided over by an officer and a partisan of the Government. The bill, as originally drawn, proposed to give to this officer of the Government exclusive jurisdiction. The provision for exclusive jurisdiction has been stricken out, but the practical effect is virtually the same. For, if this bill should become a law, when a claimant meets with an adverse adjudication at the hands of the head of an executive department to which he must go with his claim for adjudication, the Congress as a practical matter would say to him that he had had his day in court. In my judgment it would be far better for Congress to set up an additional tribunal, a junior court of claims if you please, to hear and determine these claims up to $5,000, rather than to adopt the provision contained in this bill.

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

Mr. UNDERHILL. Mr. Chairman, I am going to try once more to present to the House the reason for this section and ask their support because if you start to amend the bill to meet every exigency, every remote case, every possible expediency the mind of man may conjure up, the bill is not going to be worth anything.

The reason for limiting it to $5,000 is this: You would be surprised to find that in our committee the most of these claims up to $5,000 are brought by poor people and a large proportion of them are brought by ignorant people.

A Member of Congress can not practice before the courts on such cases and consequently the claimant has got to hire a lawyer. In their ignorance they are just as liable to fall into the hands of some unprincipled person and be obliged to leave the case to them on a contingent fee. All you lawyers know that under a contingent fee the lawyer will get a larger sum than he would on a straight fee.

A Member of Congress can go before the department—I do not care which department—that is, he can present for his constituent a claim, and he can present the evidence for him, and if the claim is allowed the constituent gets the full amount. If you reduce it to $3,000, what will be the result? These ignorant people, whom I mention, will take their cases to the courts under a contingent fee, and those that have a claim of $5,000 will receive $3,000 or less. It is no reflection at all upon the courts, it is no reflection at all upon those who appear before the courts. It is simply that this is a better way of securing equity, and we must remember all through the discussion that our committee is trying to act in the capacity of an equity court rather than a court of law, if you can separate the two, and I hope you will. We do not act upon the strict interpretation of all the laws that are laid down, as a court does. So in these small cases it is much better for the client, it is much better for the constituent, it is much better for you, that they be allowed to present their claims to the departments up to $5,000. A claim for a larger amount than that you would be justified in taking to the courts.

Furthermore, do not be afraid of the bugaboo or straw man which is conjured up here to be torn apart that the department is going to turn down every claim that comes before it, and that after it has turned it down and they come back to the Committee on Claims for adjudication that the Committee on Claims and Congress is simply going to take the action of the department and confirm it. At the present time the committee is guided by the decision or report of the department, and Congress itself time and time again holds up a bill on the floor of the House which has an adverse report from the department. So you see you have the same situation existing to-day with reference to the decision of the department that you would have under the provisions of this bill, not a bit different. If you think you are aggrieved or injured, you can still come to Congress and have the committee make an equitable adjudication of the claim rather than have it passed upon under an absolute interpretation of the law by the courts.

Mr. ALMON. Mr. Chairman, from my observation and experience with the heads of bureaus, I am more than willing that they should have jurisdiction of the amount stipulated in this bill. From my experience I believe that our constituents would get just as fair and probably more liberal settlement than they would through the Claims Committee under the present system. I am not afraid of submitting these claims up to $5,000 to the heads of the bureaus. Some one has said that they might be partisan or prejudiced because the claim arose in their particular department. The heads of the bureaus will probably have no knowledge of the facts in connection with any of these claims until they have been presented. When a man attains a position in the Government service where he gets to be the head of a bureau I am willing to trust him to pass on the claims which will be referred to him under the provisions of this bill.

Mr. RAMSEYER. Mr. Chairman, I move to strike out the last two words. Although I do not agree with the proponent of the amendment—that it changes the meaning of the bill to any considerable extent—I do want to express myself as being in favor of limiting the jurisdiction. I thought originally that it should be limited to $2,000. The amendment puts the limit at $3,000. I think that is better than $5,000; $3,000, I think, is large enough to leave to a department head. You have no provision in the bill here, even, for authorizing anybody to adopt uniform rules to guide department heads.

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. UNDERHILL. I have an amendment which will be offered as soon as this is disposed of which will take care of that feature.

Mr. RAMSEYER. Very well. That will be an improvement. Unless your amendment covers it, you have no provision for a review by anyone for errors of law. The department head may in his decision make errors of law, and his decision can not be reviewed at all.

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. UNDERHILL. The Committee on Claims and the House of Representatives in almost all of these cases make errors of law, because we are not a court of law; we are a court of equity.

Mr. RAMSEYER. That is another thing brought to my mind, since the gentleman has mentioned it. There was a good deal of loose talk when the bill was under consideration before about Congress exercising a judicial function in passing on claims. When a bill is before the House the constitutionality of which is in question, and Members get up and argue for and against the bill because of its constitutionality or unconstitutionality, do Members then exercise judicial powers or legislative powers? In acting upon the bill before us to reimburse somebody for loss of property or life, do we exercise judicial or legislative powers? It is the latter, of course, without question, and in order that we may rid ourselves of this inaccurate use of terms let me cite you an authority from the Supreme Court itself defining what constitutes the exercise of judicial power. In the Muskrat case, volume 219, page 356, I quote from Mr. Justice Miller. He said:

> The judicial power is the power of a court to decide and pronounce judgment and carry it into effect between persons and parties who bring a case before it for decision.

In other words, the exercise of judicial power has three elements—first, decision; second, pronouncing of judgment; and third, carrying into effect that judgment by a proper writ.

Now, Congress does not do that at any time, and so in none of the acts that we do here, whether passing on the constitutionality or validity of proposed legislation before us, or allowing a claim, do we exercise anything but legislative power. So let us get rid of that, and when we confer upon some officer in a department the power to pass upon a claim and transmit to Congress his finding, that is not the exercise of judicial power. Not a dollar of this money can be paid to any of these claimants until the Congress makes the necessary appropriation therefor.

Mr. MOORE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. MOORE of Virginia. As I understand, the gentleman is simply concerned about the amount, and is not concerned about the language to be employed?

Mr. RAMSEYER. I do not see much difference between the language in the bill and the language in the amendment.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. RAMSEYER. Mr. Chairman, may I have five additional minutes?

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. RAMSEYER. I do not think there is much difference in the effect of the language, to be frank, between what is in the bill and what the gentleman from Virginia [Mr. PEERY] proposed in his amendment. I do favor the limitation in the

amount in this amendment, and will vote for the amendment for that reason, not because of any changes made as to power it confers upon the chief in a department.

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. UNDERHILL. Would it not be better if the gentleman is going to accept the amendment simply to strike out the figures "$5,000" and insert "$3,000"? If you keep on emasculating this bill it will not be worth anything. I will not support the amendment.

Mr. RAMSEYER. I know you will not support it. I suggest to the gentleman from Virginia to change his amendment and limit it to the amount.

The last time the bill was up for discussion there was a great deal of talk of what foreign governments had done along this line and what various States had done in permitting the individual to sue the State. Massachusetts, for instance, was cited as a shining example. I had the legislative reference bureau in the Library of Congress to look up this point, and I find that only a very few States of the Union have laws permitting suits in tort.

The progressive State of Massachusetts, for instance, although there is a section of the code there giving jurisdiction to the superior court to hear claims of all kinds, I understand the courts have construed it as simply conferring jurisdiction, but not the power or right to entertain suits against the State in such cases without further legislation; and the Legislature of Massachusetts as late as 1924, as you will find in chapter 390 of the session laws of 1924, passed a law conferring upon the attorney general power to pass on all claims up to $1,000, and they are to be paid providing the legislature appropriates the money. Upon claims involving over $1,000 the attorney general investigates them and makes his recommendation accordingly to the Legislature of Massachusetts. But the other States that have laws along this line are very limited. I am simply referring to this in connection with what I said the other day when this was up, that we should go slow. I am sympathetic toward the general purposes of the bill. The gentleman from Massachusetts [Mr. UNDERHILL] and his committee have done a lot of hard and conscientious work on the bill, and I want to see them get something through; but as this is a new venture I appeal to you to first learn how to walk before you try to run, and I am sure it will be a safer development toward the things you want to accomplish if you go slow instead of attempting to take the whole leap at once. I understand amendments will be offered to limit the amount the Court of Claims and the court can hear and they should be adopted.

Mr. LUCE. Mr. Chairman, will the gentleman yield there?

Mr. RAMSEYER. Yes.

Mr. LUCE. In view of what the gentleman has said about the action of Massachusetts, I would submit that the valuable institution known as the legislative bureau in the Library has not gone the full limit in supplying the information.

Mr. RAMSEYER. The gentleman will take his own time in explaining that. The gentleman will concede that they have not gone the whole limit, as might be inferred from speeches made here the other day.

Mr. LUCE. Yes; I prefer to take my own time, but I supposed the gentleman would be willing to be corrected in an error of statement.

Mr. RAMSEYER. Well, if I made a misstatement as to the law of Massachusetts I will yield to be corrected.

Mr. LUCE. In 1887 it was declared that the statute passed in 1879 had given jurisdiction over all claims against the Commonwealth, whether at law or in equity.

Mr. RAMSEYER. That is what I said. That is merely jurisdictional, and does not confer, so the courts have held, at least, the power to determine those cases.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

Mr. McKEOWN rose.

The CHAIRMAN. The gentleman from Oklahoma is recognized.

Mr. McKEOWN. On this amendment to reduce the amount from $5,000 to $3,000 I did not get the exact wording of the amendment; but on the question of amount I want to call the attention of the House to the fact that $3,000 is a jurisdictional amount that makes a case removable from a State court to a Federal court on account of diverse citizenship. It would appear to me to be fair in this legislation to take that amount to determine the jurisdiction in the settlement of claims. If we require our cases to be removed from State courts to Federal courts when the amount exceeds $3,000, then it does look to me as though $3,000 ought to be the amount to be fixed in this particular instance.

Mr. UNDERHILL. The gentleman is in error. It does not require up to $5,000.

Mr. McKEOWN. I am trying to get the amount fixed. I understood this amendment was on the amount which the department can settle.

Mr. UNDERHILL. It does.

Mr. McKEOWN. Well, I want to limit the amount at which a department may settle to $3,000, because in a lawsuit in a State court between men of different citizenships, $3,000 is the jurisdictional point, and if you go over $3,000 they can transfer the suit to a Federal court. That amount seems to me to be the reasonable amount to fix here.

Mr. UNDERHILL. That is as to cases on contract but not as to cases in tort. I am afraid the gentleman did not hear my explanation as to why the amount is fixed as it is in the bill. It is solely in the interest of the poor man that we have fixed the amount at $5,000.

Mr. McKEOWN. But there are two sides to the proposition. If $3,000 is the amount to be sued for in a State court, where there is a diversity of citizenship, either in tort or on contract, then $3,000 ought to be the amount at which a department may settle a claim. You ought not to make a discrimination in favor of a department of the Government as against the jurisdiction given to State courts. That is the point I am trying to stress. If you can not risk State courts having jurisdiction of cases involving more than $3,000, where there is a diversity of citizenship, then it seems to me $3,000 is the proper amount at which a department may settle.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. PEERY) there were—ayes 21, noes 47.

So the amendment was rejected.

Mr. UNDERHILL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. UNDERHILL: On page 2, in lines 12, 13, and 14, strike out the following: "For payment out of appropriations that may be authorized by Congress therefor."

And in line 17, after the word "made," insert the following: "Appropriations for the payment of such claims are hereby authorized and payment thereof may be made to the extent Congress may approve such claims by the granting of appropriations therefor."

Mr. UNDERHILL. Mr. Chairman, this is to correct a mistake which was made when this bill was up before. I accepted an amendment which struck out the word "made" and inserted the word "authorized." I thought it was just a change of a word which did not amount to anything, and this amendment takes care of the situation. I will say for the information of the Members that it was drawn by the chairman of the Committee on Appropriations [Mr. MADDEN] and has his approval and support.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Massachusetts.

The amendment was agreed to.

Mr. RAMSEYER. Mr. Chairman, I offer an amendment. On page 2, line 10, strike out "$5,000" and insert "$3,000."

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

Mr. UNDERHILL. Mr. Chairman, may I ask whether this is not subject to a point of order, a similar amendment having just been voted on.

The CHAIRMAN. Does the gentleman from Massachusetts make a point of order?

Mr. UNDERHILL. I do.

Mr. RAMSEYER. Mr. Chairman, I ask to be heard on that. The gentleman from Virginia offered an amendment which changed the text of lines 8, 9, and 10, while the amendment I am offering simply changes the figures at the end of line 10.

The CHAIRMAN. The Chair is ready to rule. The Chair overrules the point of order, and the Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. RAMSEYER: On page 2, in line 10, strike out the sign and figures "$5,000" and insert in lieu thereof the sign and figures "$3,000."

Mr. RAMSEYER. Mr. Chairman, the amendment offered by the gentleman from Virginia not only changed the figures but changed the text of lines 8, 9, and 10. My amendment simply limits the jurisdiction of the heads of departments to $3,000 instead of $5,000.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Iowa.

Mr. MONTAGUE. Mr. Chairman, I was necessarily detained from the House, and I did not hear all of the debate in relation to this subject. May I ask the chairman of the committee whether the words "exclusive jurisdiction" are now in the text or not?

Mr. UNDERHILL. They are not in the text.

Mr. MONTAGUE. They are left out?

Mr. UNDERHILL. Yes.

Mr. MONTAGUE. I desire to concur in the motion made by the gentleman from Iowa. It is a very wholesome amendment. I think to give authority to the heads of departments the power to adjust claims of $5,000 and less is too much.

Mr. UNDERHILL. Has the gentleman taken into consideration the amendment which was just adopted providing that payment of claims adjusted by heads of departments may be made to the extent that Congress may approve such claims by granting appropriations therefor?

Mr. MONTAGUE. Yes; I have caught that in a way. The point I desire to make is this: I would like very much to see something done that would remedy the condition which now confronts claimants of the country. However, I doubt if this bill will do it. Of course, I do not mean to say anything against the honest and indefatigable effort on the part of the committee reporting this bill to bring that about.

In the first place, you will never get, except in most isolated cases, a department to give a judgment for $5,000.

Mr. UNDERHILL. Will the gentleman allow a correction there?

Mr. MONTAGUE. Of course, that is an expression of opinion of mine.

Mr. UNDERHILL. Will the gentleman allow me to present him with the facts? Out of 1,000 reports from the department, while a department never recommends any particular amount, it never opposes the recommendation of $5,000.

Mr. MONTAGUE. But you leave this to the determination of the department, up to $5,000.

Mr. UNDERHILL. We leave the determination of a claim with them up to $5,000. They may hear the evidence and they may present the facts later to the Committee on Appropriations.

Mr. MONTAGUE. I repeat my assertion that in very rare instances will a department head certify in favor of the claimant. The inertia of the Government is against the claim when you start. You have to fight your way at the beginning. You are not before a judicial tribunal. You are not meeting an open-minded agent who is to dispose of the matter. I mean no reflection whatever. They represent the Government and they understand that their duty is to be one of saving the Government, rather than to render justice to the claimant.

Mr. SCHAFER. Will the gentleman yield?

Mr. MONTAGUE. Yes.

Mr. SCHAFER. Would not the same argument apply to the Members of the Congress? They represent the Government also.

Mr. MONTAGUE. Well, when they are seeking claims it may not apply. [Laughter and applause.]

Mr. SCHAFER. I do not mean the Members of the Congress who are seeking to have claim bills allowed; I mean the members of the Committee on Claims and the Members of Congress generally in the Committee of the Whole, and the question is whether or not they will allow a claim presented by one of their colleagues acting in the same capacity.

Mr. MONTAGUE. It is a very interesting question the gentleman puts, and it involves a field of psychology that I do not wish to enter [laughter], save to observe that Congress will lend a more willing ear to these claims than the head of a department or a subordinate under the head of a department.

I want to see some action, so there can be some remedy, up to an amount of $3,000 or $5,000, or whatever the amount may be, but if you make the amount large, greater will be the preoccupation of the mind of the particular agent to refuse the claim. For this reason I hope it will be made somewhat reasonable, so that his reaction will be more favorable to a just claim.

Mr. UNDERHILL. Mr. Chairman, I would like to say just a word along this line. Under the provisions of this bill if I, personally—and I do not know of a man in Congress who has a better knowledge of the proceedings of the departments—if I had a claim of $7,000 against the Government, I would go to the department and take my chances on the department giving me an award of $5,000 and give up the other $2,000, rather than to take any other action.

I will ask the ranking minority member of the committee to bear me out in the statement that in 90 per cent of the cases where we refer them to the departments for reports, the reports come back, as a rule, favorable and with this statement, "The department does not think the amount requested excessive." Further than this, the department has no real right to go.

Now, do not be misled. The departments have used some of our Members roughly at times, according to their own feelings, but as a rule the Members of the House have had equitable and just and fair treatment by the departments, and I trust the amendment will not be adopted.

The question was taken; and on a division (demanded by Mr. RAMSEYER) there were—ayes 16, noes 48.

So the amendment was rejected.

Mr. NEWTON. Mr. Chairman, the committee will recall that in the debate on this bill 10 days ago that I offered an amendment, which was accepted by the chairman of the Committee on Claims, the gentleman from Massachusetts [Mr. UNDERHILL], and which was then adopted by the committee. It was, on line 1, of page 2, and inserted the word "negligent" before the word "omission."

Upon reflection I am of the opinion that the amendment should not have been adopted. The original language was "wrongful act or omission." I am satisfied that the word "wrongful" modifies "omission" and therefore the word "negligent" should not be used. Changed, as I have indicated, the liability is for a negligent or wrongful act or wrongful omission.

I therefore ask unanimous consent that the previous action of the committee on adopting this amendment be vacated.

The CHAIRMAN. The gentleman from Minnesota asks unanimous consent to vacate the action taken by the committee, when the bill was previously before the committee, in agreeing to an amendment at page 2, line 1, inserting the word "negligent" before the word "omission." Is there objection?

There was no objection.

Mr. BULWINKLE. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 3, line 1, strike out "(10 Statutes at Large, page 481)" and insert in lieu thereof "section 227, title 31, United States Code."

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The amendment was agreed to.

Mr. BULWINKLE. Mr. Chairman, I offer a further amendment.

The Clerk read as follows:

Page 3, strike out lines 12, 13, and 14 and insert in lieu thereof the following: "Section 3. Section 250, title 28, United States Code (sec. 145 of the Judicial Code as amended) is amended by adding after the third subsection thereof a new subsection 4, to read as follows."

The amendment was agreed to.

Mr. BULWINKLE. I offer another amendment, Mr. Chairman.

The Clerk read as follows:

Page 3, line 17, after the word "claim," strike out "exceed $5,000" and insert in lieu thereof "is in excess of $5,000 but does not exceed $25,000."

Mr. BULWINKLE. Mr. Chairman, I offer that for the purpose of limiting the amount under section 3 of this bill. Under the bill suit may be brought in excess of $5,000 up to any amount. We in the committee have had claims of a million dollars or more. I think as this is an experiment that it would be possibly better to go a little slow and limit the amount to $25,000 and consider all property claims in Congress that are over $25,000, and for that reason I have offered the amendment.

Mr. UNDERHILL. Mr. Chairman, in reference to this amendment I can see the drift of the gentleman's contention, but the facts are as follows: Most of these matters which come before the Committee on Claims involve comparatively small amounts of money and give us very little trouble excepting the time it takes to look them up and adjudicate them, but when it comes to large amounts in the Claims Committee the committee has no machinery nor has it the general atmosphere of the court to guide it.

Now, you never have limited the amount in contract cases. We passed that law many years ago and the sky is the limit there up to any amount in contract. In other words, a big manufacturer with plenty of money and a legal firm to look after its interest can come before the court and sue for an unlimited amount of money on a disputed contract. Then we passed a law known as the admiralty bill and you did not limit the amount.

I suppose the new *California* cost several million dollars. I do not anticipate that the *California* is going to be damaged by United States vessels or in its trips east and west and west and east it is going to be damaged in the Panama Canal, but suppose she was totally destroyed. There is no limit to the amount

they can sue for in court. Now, the difficulty is you are going to throw into the Committee on Claims and into Congress the adjudication of matters involving tremendous amounts of money when you do not provide the proper machinery nor the proper atmosphere with which to safeguard the interests of the claimants as well as the Nation. If you are going to reduce the amount, I trust you will not go as low as $25,000, but make a reasonable sum, but I personally object to any limitation.

Time and time again I have been asked by Members of Congress, my colleagues, who have come before the committee asking that their case be referred to the Court of Claims or to the Admiralty Court, and saying, "Can't you trust your courts?" Every time I have offered an objection my good friends of the legal fraternity will hold up to me the integrity, the honesty, the ability, and the efficiency of the courts. This afternoon it has been asked, "Can not we trust the departments?" I say that if you can trust the courts up to $25,000 you can trust them in any amount that may come before them. [Applause.]

Mr. BULWINKLE. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. BULWINKLE. How many bills are now before the committee involving a property loss of more than $35,000?

Mr. UNDERHILL. Very few.

Mr. BULWINKLE. Can the gentleman tell the number? Leaving aside post-office claims.

Mr. UNDERHILL. In 1922 we had claims which were over $15,000,000, and out of that amount I can remember but six that were for more than a million or a million and a half or two million dollars.

Mr. LUCE. Is it not true that in the case of a decision by the Court of Claims, if there be any suspicion of a miscarriage of justice, Congress has always the whip hand through the Committee on Appropriations?

Mr. UNDERHILL. The Committee on Appropriations of course can exercise its power, and I am going to differentiate between the word "power" and the word "right." As a layman I have enough respect for courts to believe that their decisions should be followed, but they have not always been followed in the past, and the Committee on Appropriations can refuse absolutely to make an appropriation.

Mr. MOORE of Virginia. Mr. Chairman, I understand very fully the difficulties that attach to the present situation, and also the trouble that the Committee on Claims has had in performing its duties. I have thought that a very good disposition of the problem would be to create a commission which would have jurisdiction of all such claims as are described in the bill, with authority to report to Congress. That would relieve the necessity of Congress taking any preliminary action. However, I have no sort of objection to allowing the department heads to pass on such claims as we have talked about in the last few minutes, although I would have preferred to see the amount restricted to $3,000.

I rose to say just a few words to the committee on what we are proposing to do, so far as tort claims are concerned. I may preface my observations by the statement that ordinarily no sovereign anywhere on either side of the water, either the Government of England or the Government of the United States, or the government of any state, submits to being sued indiscriminately in actions of tort for damages. I say this without having made any extensive examination. It is proposed by this bill to expose our Government to proceedings of that character. The courts are to be given jurisdiction to consider actions of tort where the amounts involved are without limit, and as suggested a moment ago by the gentleman from North Carolina. That is what is proposed. Let us see how the claims are to arise. Let us see how very broad is the scope of the proposition. Whenever any official or employee of the Government is guilty of negligence or of any wrongful act or omission, consequent upon which there is damage to any property, the person injured may bring his suit and effect a recovery, and he can do it, whether the amount be $5,000 or $5,000,000, or any amount.

Mr. BULWINKLE. Mr. Chairman, will the gentleman yield?

Mr. MOORE of Virginia. In a moment. Let us think of the position in which that places the Government. The Government has something like half a million officials and employees, and whenever one single one of those people is negligent or is in default because of some wrongful act, then the claimant who is injured or who charges that he is injured can look beyond the employee and bring suit against the Government. Is that a safe thing to do as broadly as that?

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. MOORE of Virginia. Yes.

Mr. UNDERHILL. I would like to ask the gentleman two questions. In the first place, is not that the practice in private as between one citizen and another, and is it not the practice of the Government as against the citizen; and second, why differentiate between actions of tort and actions on contract or in admiralty against the Government?

Mr. MOORE of Virginia. So far as the last branch of the question is concerned, there is a definiteness about contracts that does not exist in effect to the other claims.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. MOORE of Virginia. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. MOORE of Virginia. Answering the first branch of the question, there is this to be said, that the practice of governments from the very start, which is pretty universal, is due to knowledge that there is an inclination to find against a government, which is better able to pay, than against an individual.

Mr. UNDERHILL. That may be general as far as juries are concerned, but does that inclination to which the gentleman refers prevail in the case of a trained judge?

Mr. MOORE of Virginia. That is the premise on which the world has generally proceeded up to this time. So far as I know, the Government of Great Britain does not submit to be sued by anybody who chooses to bring an action of tort against it; and that is the attitude of nearly all of the States of the Union, conservative States and progressive States. Take my own State as an illustration. This sort of thing would not be permitted.

Mr. UNDERHILL. Will the gentleman stand for a correction?

Mr. MOORE of Virginia. Yes.

Mr. UNDERHILL. Then I would say to him that in England, if any person has in point of property a just demand upon the King, he may petition him in his court of chancery, by what is called a petition of right. There the chancellor will administer right theoretically as a matter of grace and not compulsorily. In fact, right is administered as a matter of constitutional duty.

The gentleman spoke of his own State of Virginia. Is it not true that the Old Dominion has remained pretty well within the limits of the Constitution and has not engaged in all lines of business as the Government of the United States has?

Mr. MOORE of Virginia. My State is now diversifying its business to an enormous extent. We have a great many road officials in Virginia. We are not willing when a road official is guilty of some negligence in a county or has been guilty of some default, not negligent in character, to permit a person who claims injury occasioned thereby to his property to go into court and assert his claim against the State.

I have not got time to illustrate fully, but let me give one or two illustrations so as to show what is proposed to be done. The Government has thousands and increasing thousands of prohibition officers. If any one of those officials is guilty of any sort of negligence, or if he is guilty of an affirmative or wrongful act, without a warrant, if you pass this bill, a claim can be set up against the Government and asserted by judicial proceedings.

Mr. UNDERHILL. Providing it is in property damage.

Mr. MOORE of Virginia. The language of the act is clear, that if the loss or damage was occasioned by a wrongful act or omission of any officer or employee of the United States, then no plea can be offered to the institution and the maintenance of the action.

Take another illustration: We have now thousands of people engaged in carrying the mail, either on rural routes or on star routes. If this bill becomes a law and it appears that any one of those people has by some act of negligence or some wrongful act which you would not perhaps thus describe, it will permit a person alleging that he has suffered injury to go into court and recover if he can.

Mr. UNDERHILL. If the gentleman will read the bill he will find that it does not do that. There is an exemption to that extent.

Mr. MOORE of Virginia. No. There is no exemption that contradicts what I have stated. I will read the language here to show to what the exemption applies:

Mr. UNDERHILL. Will the gentleman also read the very first section of the bill, where it says:

Subject to the limitations of this act, the Government of the United States authorizes the payment of claims on account of damage to or loss of privately owned property.

It is distinctly set forth, "property." It does not allow damages in other directions.

Mr. MOORE of Virginia. Well, there are hardly any bounds to the interpretation of that provision. What I say stands. You are proposing here to allow actions against the Government in such a variety of cases that nobody can imagine what will occur. And incidentally we are doing what? Encouraging all sorts of people who are interested more now in doing that kind of thing than ever in the history of the Government, to corral such claims for the purpose of urging them and earning fees. I am not going to offer an amendment, but I think this subject is entitled to much consideration by gentlemen who have given more attention to it than I have, including the gentleman from Massachusetts [Mr. UNDERHILL], for whom I have high respect. I would like to invite the opinion of the gentleman from Massachusetts and the gentleman from Texas [Mr. Box], whom I equally respect. To repeat what I said at the outset, it is my belief we could effectively rid Congress of all the harassing labor now involved, and enable deserving people to secure swift and satisfactory determination of their claims by constituting an impartial commission to consider claims and report to Congress its findings. [Applause.]

Mr. BOX. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. BOX. Mr. Chairman and gentlemen of the committee, if the membership of the House now engaged in the study of this very important bill will do me the honor to recall what I said in opening my remarks on a previous occasion, they will recall that I said it was going much further than Congress had ever before manifested a willingness to go. I still think so. I approached its consideration with grave concern. I am glad that the thoughtful men of this House are giving it their best attention. I believe the legislation ought to be enacted. I am not convinced that it is free from difficulty, but I believe that a situation as serious as we have must be dealt with. Much of the discussion we have had to-day by those thoughtful gentlemen whose remarks have contributed so much to the understanding of what is in the bill here has been from the standpoint of government. I believe my colleagues on the committee—and I think those Members of the House who pay any attention to my work on the committee—know that I do not overlook the Government's side of these questions. Perhaps I am a little bit too conservative in that direction; but while that may be true, I want the membership to remember that there is a very high and important sense in which we are obligated to look at the other side of this question. There are literally hundreds—I may say thousands—of claims that I verily believe to be just but which get no consideration. Men can not do things without making mistakes, and you can not confer responsibility without sometimes inflicting wrong, and sometimes wrong results from trusting men. But you can not refuse to grant any relief because there is danger of mistake. There is not a court in the land that does not commit error. None of us is free from error. Therefore we must recognize that we have to use faulty human instrumentalities in our efforts to do right by the claimants—thousands of claimants—as well as by our Government.

This is new legislation in principle in the main. We have some minor bills, but this is the big affair. The Government of the United States is now maintaining contact with its people in a great many ways in which it did not have contact heretofore. It has thousands of trucks carrying mail; it has like numbers of Army and Navy trucks, and hundreds of airplanes.

It has many business contacts not covered by routine law, and it is constantly creating obligations of payment not provided for by law. We have, I think, 500,000 or 600,000 employees using these agencies and distributed and working among the 115,000,000 or 120,000,000 of our people, many of whom are very weak, indeed, when they come to match strength with their Government.

Gentlemen, when we sit on your Committee on Claims we try to protect the Government. Some of us try very hard and, perhaps, lean over a little bit too far that way; but at the same time we want to exercise whatever discretion we have in doing justice by everybody.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BOX. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to proceed for five additional minutes. Is there objection?

There was no objection.

Mr. PEERY. Will the gentleman yield?

Mr. BOX. Yes.

Mr. PEERY. Is it not true that under this bill damages for personal injury or death are limited to $7,500, while there is no limit for damages to property?

Mr. BOX. That is true. I want to call your attention, gentlemen, to this, and I want you to keep it in mind in whatever you conclude to do with the legislation we have presented to you, that the Congress retains control of these claims completely. I am sure there is nobody on the committee who has any such pride in the work he has done in the committee as to want that to influence anybody to pass legislation that ought not to be passed. After your departments and after your compensation commission have passed on claims we do not tell the Treasury to pay them. We say send it back to Congress with a summary of the evidence, and with the reasons for its allowance. If you think your Appropriations Committee is overburdened, you can, I suggest to my highly esteemed friend from Virginia, have a joint committee of the two Houses, or you could enlarge your House Committee on Claims and through it do the work of reviewing these claims and the action taken upon them. You can do that if you want to relieve the Appropriations Committee of the work of reviewing what these departments have done. If you want to provide an agency of your own, wholly within your own control, you could do that under this bill by the organization of a new committee or the extension of the powers of one of your present committees.

Your Committee on Claims has the right to report appropriations for claims. If you pass this legislation you would still have the power to control this business according to your judgment. If you believe that the legislation is not adequate, that it is unsafe or unjust to the Government or unjust to the claimants, we are still retaining in Congress the power to dispose of them. The Committee on Claims, or a division of it, could pass on these reports of the hearing and tentative allowance or disallowance and report back to this House in order that it may exercise its discretion concerning the claims.

This question is very serious. It weighs on the conscience of lawyers or Members of this House who see what goes on in that committee and how many people are without redress.

I say to you in all candor that I believe this will multiply the number of claims. I think I am under obligation to say that, because the question is probably in the minds of my colleagues.

Mr. BANKHEAD. Will the gentleman yield?

Mr. BOX. Yes.

Mr. BANKHEAD. I have great respect, as all of us have, for the opinion of the gentleman from Texas. One of the things that has been bothering me about this bill is the provision which gives exclusive authority to the head of a department to——

Mr. BOX (interposing). I think the word "exclusive" has been eliminated.

Mr. BANKHEAD. Well, whether that is stricken out or not, it does not change the proposition. You give authority under this bill to the heads of departments to try absolutely and determine the issues of claims up to the sum of $5,000, without any right of appeal anywhere. That is final, conclusive, and res adjudicata.

Mr. BOX. I think not. I think the gentleman is in error as to that.

Mr. BANKHEAD. In effect, it seems to me, that is it, and that is the reason why I ask for the candid judgment of the gentleman from Texas. In the bill you provide:

> No claim that, prior to the time of the passage of this act, has been rejected or reported on adversely by any court or department or establishment authorized to hear and determine the same, shall be considered under this title.

Of course, the gentleman's answer to that is that the Committee on Claims would probably still have jurisdiction of that matter, that they are not divested of jurisdiction to hear it; but is it not the opinion of the gentleman from Texas that it would greatly handicap the possibilities of a claimant ever securing any consideration whatever from the Claims Committee if one of these heads of departments had turned down the claim, although the head of a department might be in error on the law and the facts as to the righteousness of the claim?

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. BANKHEAD. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for five additional minutes.

The CHAIRMAN. The gentleman from Alabama asks unanimous consent that the gentleman from Texas may proceed for five additional minutes. Is there objection?

There was no objection.

Mr. BOX. I think there are two or three things involved in the gentleman's intelligent question. I think, first, that the

limitation imposed upon the power of a department is not in any sense a limitation upon the power of Congress to deal with the question after it has been before a department. Next I do believe that when a department has passed on one of these claims it will be more difficult to get it reopened and gone into carefully and thoroughly than if it were being done at first instance, where a department had never passed on it, otherwise this bill would serve no purpose. I think, however, that if it were apparent that any of the parties had not received justice that the Committee on Claims, if it properly performed its duty, would reopen the claim and that no party would be left without redress. It would make it more difficult. It would add weight to the side in favor of which the department ruled, the view on which they had decided the case. I think it would not bar your action, but would simply make it more difficult.

Mr. NEWTON. Will the gentleman yield for a question along that line?

Mr. BOX. Yes.

Mr. NEWTON. Is it not the present rule of the committee on a tort claim arising out of the negligence of one of the Government's employees not to consider the claim if the department reports adversely upon it?

Mr. BOX. I do not think it is true that we refuse to consider such a claim. I think we give great weight to such a report.

Mr. NEWTON. I want to say to the gentleman, that has been my experience before the Claims Committee of the House in the last Congress. They would take the judgment of an assistant solicitor or a solicitor of one of the departments as being absolutely final and conclusive on all questions of law and fact, and a Member was absolutely powerless before the committee to get a hearing upon such a claim. That is the experience I have had before the gentleman's committee.

Mr. BOX. I am sorry the gentleman has had that experience. I want to say for myself, and I think I speak for a number of my colleagues, that what a department says is not conclusive upon me, and I think it is not usually conclusive upon the committee, though it makes it harder.

Mr. NEWTON. Then is the rule being applied to one Member in one way and to another Member in another way?

Mr. BOX. I can not go into all of those things. I do not know what claims the gentleman has. I know for one thing that the committee can not do one-tenth of the business it ought to do and do it right.

Mr. NEWTON. That is the reason I am for this bill. I want to take part of the work away from the committee.

Mr. BOX. If I may take the House into my confidence for just a moment concerning some claims that have been referred to the subcommittee of which I have the honor to be chairman, and I have had other experiences like it, involving several hundred thousand dollars and involving a lot of mixed-up and disputed transactions, my colleagues and I get together for a few hours whenever we find time and have some hearings and do our best to ferret out the rights involved in these claims, realizing all the time that we are not able to go to the bottom of them and do justice either by the claimants or by the Government. I remember yet another case that came before this House where the claim involved about $1,400,000. The gentleman from Texas reached one conclusion and a majority of the committee reached another. After spending many hours in going through them, I stated to the House that if I, as a responsible lawyer, were undertaking to adjudicate these claims I would want several months probably to ferret out all of the controverted facts and learn the truth in order to do right concerning them.

Now, gentlemen, this legislation is difficult. I am not going to tell this House that there are not going to be more claims. I believe there will be more claims.

Mr. McSWAIN. Will the gentleman yield?

Mr. BOX. Yes.

Mr. McSWAIN. But in spite of the gentleman's misgivings, I understand the gentleman is for this bill?

Mr. BOX. I am, because I would rather make an honest effort to deal with a bad situation than to throw it down and run off and say that because there is some danger I will not have anything to do with it. [Applause.]

Mr. McSWAIN. I have so much confidence in the gentleman from Texas that I am going to vote with him.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. NEWTON. Mr. Chairman, I believe in the general principles embodied in this legislation and want to support it and see it passed. I believe that in the interest of the bill generally the amendment of the gentleman from North Carolina should be adopted.

This is a new proposition, but because it is new we ought not to turn it aside. We ought to take it up, but at the same time there is no reason at all why in taking it up we should not safeguard it against possible abuse. Why it is that on both sides of the aisle there are a large number of Members who are in favor of the general proposition? This was clearly stated by the gentleman from Texas [Mr. Box] a moment ago, when he said that it is a physical impossibility for the Committee on Claims to really handle the number of bills presented to it, and to handle them well and conscientiously.

The great majority of these claims, of course, run in amounts from a few dollars up to $5,000 or $10,000. Bills embodying claims in excess of $10,000 are in the great minority. If this is the case, by the passing of this legislation, limited in its effect to claims in small amounts, we are really accomplishing the major portion of our purpose. We are then leaving to the committee plenty of time to take care of the larger claims, above $25,000, and the committee is going to have ample opportunity and ample time to take care of such claims.

Then, after the law has been in effect for a period of years and we have had an opportunity to judge whether it is being abused by an excess of claims or whether the courts are too lenient in rendering judgments under the bill, then we can remove the limit if that is then necessary.

Therefore it seems to me that in order to properly start this bill out and remove some of the objections to it we ought to adopt the amendment of the gentleman from North Carolina and limit these tort claims to $25,000.

I think the committee will not be overburdened by claims of above this figure.

Mr. UNDERHILL. Will the gentleman yield?

Mr. NEWTON. I will.

Mr. UNDERHILL. I will ask the gentleman the same question I have asked others: How do you differentiate between contract claims, property claims, and admiralty claims that are limitless?

Mr. NEWTON. As far as contract claims are concerned they seem to me to stand on an entirely different basis. You have the Government and the citizen entering into contractual relations. There is something certain about what the damages will be. As to admiralty I do not know anything about admiralty law and I am not going to say anything about it, but I do say that when you open up the field of torts and destroy the custom of ages and make the sovereign subject to lawsuits for wrongful acts of its employees or for the negligence of its employees, then you are entering into a very wide field. I do not believe that we ought to say "No; the Government is not going to be responsible for the negligent acts or omissions of its servants or the wrongful acts of its servants," but I do not think we ought to say we are going to be responsible without limit. I hope the gentleman and other members of the committee will yield on this question and let us get started where we will not be opening up the door to possibly a large number of lawsuits against the Government. Anyone who has been in large cities knows the efforts made by the claims gatherer to get claims to bring action upon them. We are inviting that very practice here, and if it is necessary to do it let us limit the amount.

Mr. LUCE. In view of what was said about discarding the "custom of ages," I would comment on the antiquity of this doctrine.

Under the Roman law judicial attitude varied at different periods. In the latter part of the Middle Ages came revolt against tyranny. In this particular the cities and towns and people successfully opposed kings and nobles, with the result that up to about the sixteenth century, speaking broadly, it was the doctrine of most of the world that corporations, whether municipal or otherwise, including governments in their corporate capacity, might be held responsible in court for either their own acts or those of their agents.

Then this doctrine was upset. By whom? By the tyrants, the absolute monarchs who came to dominate Europe. With absolutism in England under the Tudors and as long as the Stuarts could prevail, and with absolutism under such monarchs as Louis XIV, there was established the opposite doctrine, enforced for the first time with general acceptance, that the king could do no wrong.

Gentlemen have declared that the doctrine now prevails generally. On the contrary, England and the United States are the only countries in the civilized world where it prevails. It has been overturned in Germany, it has been overturned in France, it has been overturned on all the Continent of Europe, and it is a strange thing, sir, that these two countries—England and the United States, democratic in the essence of their government—still persist in adhering to this doctrine of the absolute monarchist that the rest of the world has rejected.

Ah, but we do not wholly hold to it. I wish the gentleman from Virginia was still in the room that I might tell him, it was his Commonwealth that led the way only two years after the Declaration of Independence in a revolt against this doctrine.

Said Justice Bouldin in 1874:

It has been the cherished policy of Virginia to allow to her citizens and others the largest liberty of suit against herself; and there has never been a moment since before October, 1778, that all persons have not enjoyed this right by express statute.

Authority to this end has been placed in 17 State constitutions, authority for the legislature to permit the States to be sued in the courts.

The other day, without warning that this subject was to be taken up, relying on my memory, without refreshing it by reference to notes, I erred as to what had taken place in my own State. I beg the indulgence of the House that I may correct the impression then given. I find that the Massachusetts Legislature in 1879 gave the courts the power to consider cases in contract and that in 1887 it intended to give the courts power to handle cases in tort, for it used these words, "All claims against the Commonwealth whether at law or in equity."

There come times when the courts make decisions that laymen can not fathom. With all due regard for the highest court in my own Commonwealth, I express my deep regret that in this matter, in one of the very few instances in its record, it saw fit to declare that the legislature did not mean what it said.

The court held it was not to be conceived that the legislature meant what its words would commonly mean. It held that the plain, simple purport of the language of the Massachusetts Legislature was not to be accepted, but that the words were to be taken in a juridical sense. So, by judicial legislation, the purpose of the legislature has been overthrown.

The gentleman from Virginia [Mr. MOORE] expostulated at the idea that a government might hold itself responsible for defects in highways or injuries caused by negligence of the servants of the State in connection with highways. In reply I may point out that my State has by specific legislation empowered the courts to handle cases growing out of defects in the State highways.

It was my province at one time to be at the head of the committee in our State legislature which would have handled these matters. My colleague [Mr. GIFFORD] served in the State senate, as I recall it, on the corresponding committee. Neither he nor I can remember any claim referred to those committees, save possibly in one instance in my own case, where there was more of equity than of law involved. We have turned these claims cases out of the legislature, and Massachusetts still survives. Her treasury has not been wrecked. Her people have not been wronged.

Mr. RAMSEYER. Mr. Chairman, will the gentleman yield?

Mr. LUCE. Yes.

Mr. RAMSEYER. What was the object, then, of the statute passed by the Legislature of Massachusetts not later than 1924 conferring jurisdiction on the attorney general to consider claims up to a thousand dollars, and over $1,000 to investigate them and make recommendations to the legislature?

Mr. LUCE. By such legislation we have so reduced the number of claims that our general court is no longer disturbed by their volume or by their importance.

Mr. RAMSEYER. And by "general court" the gentleman means the Legislature of the State of Massachusetts?

Mr. LUCE. That is what I mean.

Mr. RAMSEYER. I asked the question so that these western fellows around here would understand what the gentleman is talking about. [Laughter.] The gentleman admits that when the bill was under consideration before he was incorrect in his statement as to what they do in Massachusetts. I have not had time to look up the procedure in England or in the continental countries of Europe.

The gentleman evidently disagrees with his colleague [Mr. UNDERHILL], and I think I know that the gentleman is wrong in regard to what is possible over in England. At least, the gentleman from Massachusetts now having the floor puts England in the same class with us and places the continental countries of Europe in a different class. I am wondering whether, in referring to the procedure in Germany and France and in other countries in continental Europe, the gentleman is any more correct now than he was the other day when the bill was under consideration when he told us to what extent you could go in the courts of Massachusetts.

Mr. LUCE. No fellow Member has done me a greater favor when I have been on my feet than has my friend from Iowa [Mr. RAMSEYER] in expressing doubt, because in so doing he reminds me of what I came very nearly forgetting. It happens that Prof. Edward N. Borchard, of Yale, has printed in the issues of the Yale Law Journal in the course of the past two years a series of six remarkable articles on "Governmental responsibility in tort." These articles are scholarly in the extreme. The writer has ransacked history, has furnished a multitude of citations, and has shown himself a complete master of the subject. My statements of fact in relation to the earlier history of the matter and the present situation abroad are to be credited to Prof. Edward N. Borchard, of Yale. If his accuracy should be questioned, I believe he would find ample reply.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired. The question is on the amendment offered by the gentleman from North Carolina [Mr. BULWINKLE].

Mr. FORT. Mr. Chairman, may we have the amendment again reported?

There being no objection, the amendment was again reported.

The question was taken; and on a division (demanded by Mr. BULWINKLE) there were—ayes 38, noes 46.

So the amendment was rejected.

Mr. BULWINKLE. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. BULWINKLE: Page 3, line 17, after the word "claim," strike out "exceed $5,000" and insert in lieu thereof "is in excess of $5,000 but does not exceed $50,000."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Carolina.

The question was taken; and on a division (demanded by Mr. BULWINKLE) there were—ayes 41, noes 51.

So the amendment was rejected.

Mr. BULWINKLE. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. BULWINKLE: Page 3, line 16, after the word "of" in line 16, strike out "the Federal tort claims" and insert in lieu thereof the word "this."

Mr. BULWINKLE. Mr. Chairman, that amendment is introduced to clarify the unusual procedure of citing the act in the act creating the act. Under this a great many Members did not know what the Federal tort claims act was. That is the bill that we are now considering.

Mr. UNDERHILL. Mr. Chairman, I bow to the superior judgment of my colleague.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. Paragraph 20 of section 24 of the Judicial Code, as amended, is amended by adding after the first subdivision thereof a new subdivision to read as follows:

"Concurrent with the Court of Claims, of all claims liability for which is recognized under Title I of the Federal tort claims act, if the amount claimed is in excess of $5,000 but does not exceed $10,000. All suits brought and tried under the provisions of this paragraph shall be tried by the court without a jury."

Mr. BULWINKLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: Page 3, beginning with line 18, strike out section 4, commencing with line 18, on page 3, and ending with line 2, on page 4, and insert in lieu thereof the following:

"SEC. 4. Subsection 20. Section 24, Judicial Code, as amended (subsection 20, section 41, title 28, United States Code), is amended as follows:

"'(20) Suits against United States. Twentieth. Concurrent with the Court of Claims, of all claims not exceeding $10,000, founded upon the Constitution of the United States or any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable, and of all set-offs, counterclaims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever on the part of the Government of the United States against any claimant against the Government in said court; and of any suit or proceeding commenced after the passage of the revenue act of 1921, for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority or sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws, even if the claim exceeds $10,000, if the collector of

internal revenue by whom such tax, penalty, or sum was collected is dead or is not in office as collector of internal revenue at the time such suit or proceeding is commenced. Nothing in this paragraph shall be construed as giving to either the district courts or the Court of Claims jurisdiction to hear and determine claims growing out of the Civil War, and commonly known as "war claims," or to hear and determine other claims which had been rejected or reported on adversely prior to the 3d day of March, 1887, by any court, department, or commission authorized to hear and determine the same, or to hear and determine claims for pensions; or as giving to the district courts jurisdiction of cases brought to recover fees, salary, or compensation for official services of officers of the United States or brought for such purpose by persons claiming as such officers or as assignees or legal representatives thereof; but no suit pending on the 27th day of June, 1898, shall abate or be affected by this provision. No suit against the Government of the United States shall be allowed under this paragraph unless the same shall have been brought within six years after the right accrued for which the claim is made. The claims of married women, first accrued during marriage, of persons under the age of 21 years, first accrued during minority, and of idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued, entitled to the claim, shall not be barred if the suit be brought within three years after the disability has ceased; but no other disability than those enumerated shall prevent any claim from being barred, nor shall any of the said disabilities operate cumulatively. Concurrent with the Court of Claims, of all claims liability for which is recognized under Title I of the Federal tort claims act, if the amount claimed is in excess of $5,000 but does not exceed $10,000. All suits brought and tried under the provisions of this paragraph shall be tried by the court without a jury.'"

Mr. UNDERHILL. Mr. Chairman, as I followed the reading of the amendment, this is merely the quoting of the law as it now reads, instead of referring to it, in lines 18 and 19, on page 3. Am I right in reference to that?

Mr. BULWINKLE. Mr. Chairman and gentlemen of the committee, merely this: On page 3 of the bill, line 18, you will notice that it cites paragraph twentieth. It should be "paragraph 20 of section 24 thereof, a new section." Under this section of the Judicial Code there is only one section, and the amendment here proposed goes into what you might call the body of that section in making a new subdivision. But this just reenacts the provision of the Judicial Code affecting this section, plus the words beginning on line 22 of section 3.

Mr. UNDERHILL. And ending on page 4 in line 2?

Mr. BULWINKLE. Yes. While I am here I may state that through inadvertence I overlooked this just now, and probably we will have to have an amendment to this amendment striking out and inserting "Title I of the Federal tort claims act."

The CHAIRMAN. The gentleman asks unanimous consent to modify his amendment in the manner indicated. The Clerk will report the amendment for information.

Mr. BULWINKLE. The latter part of it.

The Clerk read as follows:

Concurrent with the Court of Claims of all claims liability for which is recognized under Title I of the Federal tort claims act if the amount claimed is in excess of $5,000 but does not exceed $10,000. All suits brought and tried under the provisions of this paragraph shall be tried by the court without a jury.

Mr. HUDSPETH. Mr. Chairman and gentlemen of the House, if I caught correctly the gentleman's amendment it prohibits the bringing of any suit in the Federal court where the cause of action arose on a claim six years prior to bringing the suit?

Mr. BULWINKLE. No. If the gentleman will read, beginning on line 22, page 3, he will notice it gives concurrent jurisdiction between the court of the districts and the Court of Claims.

Mr. HUDSPETH. Something is stricken out here.

Mr. BULWINKLE. I know; but the gentleman is reading the original law as it is at present.

Mr. HUDSPETH. Then is the gentleman amending the present law?

Mr. BULWINKLE. Yes; so as to get it in proper form. That is all.

Mr. HUDSPETH. It is such a long amendment——

Mr. BULWINKLE. That is true, but as I stated before, you have the words repeated there. That would be the case if this were added to the existing law.

Mr. HUDSPETH. I just caught the reading of the latter part. I was absent for a moment from the Chamber attending a hearing in the Committee on Appropriations. What is the gentleman seeking to do with the bill that we passed out of the committee, reported by the gentleman from Massachusetts [Mr. UNDERHILL], as I understood, by unanimous vote? What are you seeking to amend here?

Mr. BULWINKLE. It is to clarify it. That is all.

Mr. HAWLEY. The first part of that amendment, as I understand it, is just a reenactment of existing law. We will have it all in one place.

Mr. UNDERHILL. Yes; in one paragraph. The error in the bill was in referring to two subdivisions.

Mr. BULWINKLE. There was no subdivision.

Mr. HUDSPETH. It says:

Concurrent with the Court of Claims of all claims liability for which is recognized under Title I of the Federal tort claims act, if the amount claimed is in excess of $5,000 but does not exceed $10,000. All suits brought and tried under the provisions of this paragraph shall be tried by the court without a jury.

Now, if that is in the bill, why is the gentleman seeking again to reinsert it?

Mr. BULWINKLE. If that were left out, then you would have under section 41 of the act——

Mr. HUDSPETH. Are you speaking of the bill or of the present law?

Mr. BULWINKLE. I am talking about the bill as it will be if reenacted. There is only one subdivision of section 20 under the existing law. Then you have this:

All suits brought and tried under the provisions of this paragraph shall be tried by the court without a jury.

Mr. HUDSPETH. Where are you going to place the provision amending the bond?

Mr. BULWINKLE. It is incorporated right here in the existing law.

Mr. HUDSPETH. When you go to placing it in the code what are you going to do with it? You mean in the code that has just been enacted?

Mr. BULWINKLE. Either the judicial act or the code just enacted. It does not change existing law.

Mr. HUDSPETH. I understood the gentleman was limiting the suits that can be brought within six years from the time the cause of action arose up to the time the suit was instituted.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. HUDSPETH. Mr. Chairman, I ask unanimous consent to proceed for two additional minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to proceed for two additional minutes. Is there objection?

There was no objection.

Mr. HUDSPETH. The gentleman assures me it does not alter that situation.

Mr. BULWINKLE. The only thing I am doing here is to show the House what section of the Judicial Code is amended by this provision in the bill.

Mr. HUDSPETH. The gentleman is not injecting any new matter into the bill?

Mr. BULWINKLE. It is the same matter which is in the bill, commencing in line 22, on page 3, and ending in line 2, on page 4. It is the same matter in the bill placed as an amendment showing what the existing law is. That is all.

Mr. HUDSPETH. If that is what the gentleman intends, I have no objection.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Carolina.

The amendment was agreed to.

The Clerk read as follows:

SEC. 5. Suit under section 24 or 145 of the Judicial Code, as amended by this act, upon a claim accruing on or after April 6, 1920, and prior to the passage of this act, shall be brought within one year after the passage of this act or within six years after the accrual of the claim.

Mr. UNDERHILL. Mr. Chairman, I offer an amendment. I move to strike out, in line 5, page 4, "1920," and insert in lieu thereof "1925."

In line 6, strike out the words "one year" and insert in lieu thereof the words "six months."

In line 7, strike out the word "six" and insert in lieu thereof the word "three."

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. UNDERHILL: On page 4, in line 5, strike out the figures "1920" and insert in lieu thereof the figures "1925."

In line 6, strike out the words "one year" and insert in lieu thereof the words "six months."

In line 7, strike out the word "six" and insert in lieu thereof the word "three."

Mr. BOX. I want to ask the chairman if he does not understand that this insertion of 1925 has the effect of simply limiting the operation of this bill to causes of action arising after

that date and that it has no effect at all on such causes of action which arose prior to 1925, such as my colleague from Texas [Mr. HUDSPETH] has in mind?

Mr. UNDERHILL. The gentleman is absolutely correct. We had to set a limit. This bill was drawn at least four or five years ago, and in redrawing the bill from year to year those dates were left in. It is perfectly apparent to the Members that it would not be wise to set such a long limit as is now contained in the bill. Consequently, we have suggested the change of date to 1925, and it does not act as a retroactive feature at all.

Mr. BOX. And leaves the holders of those claims with all the rights and advantages they now have?

Mr. UNDERHILL. Yes.

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

Mr. UNDERHILL. Yes.

Mr. RAMSEYER. Does not the gentleman think to reduce the time from one year to six months after the passage of this act is an unnecessary limitation? Just why does the gentleman *think* one year after the passage of this act is too long?

Mr. UNDERHILL. I frankly stated to the House on a previous occasion that I had accepted this suggestion as strengthening the bill in another body, and that the reason for it was a reason which appealed strongly to me, and that was that in these Government suits it would be well to reduce the time as far as was possible to do so in order to protect the Government against suits which might be brought and the witnesses might have disappeared in the meantime. It is a protective measure for the Government.

Mr. RAMSEYER. Three months would be still more protective, but that is not the question. It is a question of reasonableness.

Mr. UNDERHILL. I think six months is long enough. If a fellow has a suit to bring against the Government or anyone else, he ought to bring it within a short time. In the original bill the limitation was 60 days. That was increased to one year later on in order to conform to the general practice in the courts. However, it was thought very unwise to leave it one year, but that we should reduce it to six months, which is considered a reasonable time.

Mr. RAMSEYER. I do not want to oppose the committee's action, but I simply want to state that one year would not be an unreasonable time after the enactment of the law. A lot of people do not learn what Congress does even within that length of time. Even some Members of Congress a year after a law is passed wake up to a realization that they did not know such a law ever passed.

Mr. UNDERHILL. It will take care of most cases.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts.

The amendment was agreed to.

SEC. 7. No suit upon any claim shall be brought under section 4 or 5 if the claim has been determined by the head of any department or establishment under section 1; and no claim shall be presented for consideration to the head of any department or establishment under section 1 if final judgment thereon has been rendered in a suit upon such claim brought under section 4 or 5.

Mr. NEWTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Minnesota offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. NEWTON: On page 4, line 13, strike out lines 13, 14, and 15 to and including the semicolon.

Mr. NEWTON. Mr. Chairman, the committee will note that I have stricken out the language which constitutes words of limitation; that is, "no suit upon any claim shall be brought under section 4 or 5 if the claim has been determined by the head of any department or establishment under section 1."

Under the plan or scheme provided in the bill you can take a claim and go to the department and have it determined there. If the claim is over $5,000, you then have recourse to the courts. This provision makes a determination—now mark this—this provision makes a determination by a department head absolute and final.

If there is anything I do not like and that the average Member of Congress does not like it is the granting of arbitrary power to anyone, and this applies to any member of the executive branch of the government. I abhor the exercise of arbitrary power by anyone.

Mr. HUDSPETH. Will the gentleman yield?

Mr. NEWTON. Yes.

Mr. HUDSPETH. As I understand, it is the gentleman's contention that under the bill the language makes the finding of a department head final.

Mr. NEWTON. Exactly.

Mr. HUDSPETH. And you have no right to go into court.

Mr. UNDERHILL. No; the gentleman is mistaken.

Mr. NEWTON. You have no recourse.

Mr. UNDERHILL. The gentleman is absolutely mistaken.

Mr. NEWTON. I yield to the gentleman from Massachusetts [Mr. UNDERHILL], if there is any question about it.

Mr. HUDSPETH. I had understood just the reverse, I will state to the gentleman from Minnesota.

Mr. UNDERHILL. If the gentleman will yield——

Mr. NEWTON. Yes.

Mr. UNDERHILL. I stand firm for the right of the citizen to have his day in court, but I do not declare for a policy of giving him three or four chances at it. This paragraph determines that if the department head decides against him he can not carry it to court; and it also determines that if the court decides against him he can not carry it to the department; but it does not prevent him from coming to Congress at any time he wants to.

Mr. NEWTON. He has that right to-day. The citizen can come to Congress, but, as I said a few moments ago, under a rule which has been established by the gentleman's committee, if a department head says that a tort claim is not just, under the rule of the gentleman's committee a Member of Congress is precluded now from having the committee pass judgment upon it.

Mr. UNDERHILL. Will the gentleman yield?

Mr. NEWTON. Yes.

Mr. UNDERHILL. There is no such rule in the committee, and there has never been such a rule in the committee. If the gentleman must force me to a confession, I will say that I have exercised arbitrary powers in the committee which I had no right to exercise and from which I want to be relieved. I adopted this procedure in order that we might get action on some matters and do some justices rather than take up a case that has not a snowball's chance either in the committee or on the floor of the House and spend weeks on that case to the exclusion of a score or more cases with real merit. This is in the interest of most of my colleagues, and if there is anybody to blame I will accept the responsibility.

Mr. NEWTON. I am not seeking to place the blame upon anybody. I am stating a fact.

Mr. DEMPSEY. Will the gentleman yield?

Mr. NEWTON. In just a moment. What I am seeking to do is to get away from the present situation that we are in.

Mr. UNDERHILL. And let us get through it by this bill.

Mr. NEWTON. We want to get through it in the right way, and the way the bill is now drawn you can not get through it because if it is a small claim you can not get into court. If it is a small claim, you can get the department head to pass upon it up to $5,000; but if the department head rules against it, you are foreclosed now, under the gentleman's idea of the way the procedure should be conducted in his committee, and we will be foreclosed if we pass this bill. This takes in a great majority of the claimants. Wherein are we benefiting ourselves by any such legislation if we so restrict it?

I now yield to the gentleman from New York.

Mr. DEMPSEY. Is not this the scope of the bill, and I would like to have also the attention of the chairman of the committee? Under subdivision (b) on page 2, authority is conferred upon department heads to settle and adjust claims up to $5,000.

Mr. NEWTON. That is right.

Mr. DEMPSEY. Now, nowhere else is there any jurisdiction conferred upon a department head except under that subdivision.

Mr. NEWTON. That is correct.

Mr. DEMPSEY. Then we come to page 3, and under section 3 jurisdiction is conferred upon the courts to consider claims in excess of $5,000, and no jurisdiction is conferred upon the court except in respect of claims in excess of $5,000.

Mr. NEWTON. That is my understanding of it.

Mr. DEMPSEY. Then we come to page 4, and under this provision which the gentleman proposes to strike out, the conclusion or decision of a department head as to a claim of less than $5,000 is made conclusive and final.

Mr. NEWTON. That is right.

Mr. DEMPSEY. Now, if we are going to make the bill so that the department shall have final and exclusive jurisdiction, would not we have to go back to section 3 and strike out the words in lines 16 and 17, "If the amount of the claim exceeds $5,000"—and this would confer jurisdiction on the court in all claims?

Mr. NEWTON. That is correct.

Mr. DEMPSEY. Would it not be an advantage to give the claimant the choice or opportunity if he is poor and has a small claim to go to the department head first, which would be accomplished by the second amendment, the one the gentleman

has suggested, and the one I have outlined on page 3, and enable him to present his claim to the department, and then the department represents the Government as if the district attorney is conferring with a criminal or the counsel of a city is conferring with a man who has a claim against the city—the situation is precisely the same.

Mr. NEWTON. The gentleman is correct.

Mr. DEMPSEY. The man should not be bound by the determination of the officer who represents the other side, but should have his day in court. The man with a small claim can not have his day in court except by the two amendments.

Mr. NEWTON. The gentleman is correct.

Mr. DEMPSEY. Ninety per cent of these claims will be claims of poor, practically helpless people ranging in amount from $1,000 to $5,000. By passing the bill as drawn without the two amendments you are not affording any relief to this large number of claimants, but only relief to the big fellow who has a claim beyond the $5,000, reaching up in amount however great it may be; is not that the truth?

Mr. NEWTON. That is correct.

Mr. DEMPSEY. So that we are extending relief to the man who does not need it, and giving such limited relief to the poor man that, according to my experience and the experience of all of us, is no relief at all.

Mr. NEWTON. Yes; the claimant under these conditions, if he knows about the law and the officers who handle the claims, would base his claim on a sum over $5,000 in order to get into the court. That is what we are inviting.

Mr. DEMPSEY. We are not criticizing the Government, but we say it is a prejudiced judgment and would inevitably be a prejudiced judgment, and the claimant ought not to be bound by a judgment of that kind.

Mr. GREEN of Iowa. Will the gentleman yield?

Mr. NEWTON. I will.

Mr. GREEN of Iowa. My experience induces me to agree with the gentleman from Minnesota. When I first came to the House I was on the Committee on Claims, and I know how the departments acted then, and I know how the departments act recently. I knew about a claim that would not take a jury 15 minutes to decide, but which an officer of the department promptly rejected on the statement of a colored driver of an Army truck. That claimant would be entirely remediless if his claim was left at $5,000.

Mr. NEWTON. He would, save for the somewhat theoretical remedy which he now has to come to Congress.

The CHAIRMAN. The time of the gentleman from Minnesota has again expired.

Mr. NEWTON. In view of the interruptions, I ask for three minutes more.

The CHAIRMAN. Is there objection

There was no objection.

Mr. BOX. Will the gentleman yield?

Mr. NEWTON. I will.

Mr. BOX. I want to call attention to the language "claims up to $5,000." There is no such thing as appealing from one of these cases tried by the department under this act, because this act places the jurisdiction of the court above that sum. Would the gentleman have an overlapping there?

Mr. NEWTON. Yes; I am glad the gentleman has asked the question. We know what it is to present a claim to the department. For example, they have a report of the post-office inspector on the alleged negligence or conduct of the post-office truck driver. The evidence that comes before the departmental officer is in some instances meager. There is no opportunity for cross-examination. They rely in a large measure on the judgment of the post-office inspector. It is not like a lawsuit; it is not handled like a lawsuit. After you have presented a claim of that kind the law officer says, "No; you are not entitled to it."

I do not see any reason at all why a claimant should then be barred from proceeding in the courts. I can see why, by electing to go into the courts, the departments should then be barred from handling it, because you have then determined the question judicially in a judicial procedure, with the opportunity to have witnesses and to examine and cross-examine; but I can not figure out why a man who feels he has a just claim against the Government should be precluded from going into court if his claim has been before a departmental officer.

Mr. McREYNOLDS. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. McREYNOLDS. Is there any reason why he could not go into court without going to a department?

Mr. UNDERHILL. Yes; because under this bill as it is now drawn, if the claim is under $5,000, he is precluded from going to the courts.

Mr. McREYNOLDS. I understand that, but in damage suits of this character is there any reason why a lawyer can not bring suit for $10,000, as they generally do?

Mr. UNDERHILL. I just stated to the gentleman from New York that if we did not do this we will be writing an invitation to increase the amount and to bring the action.

Once more, I want to emphasize the fact that because of the unfortunate and unhappy experience of one or two or three of our Members in going before departments and having their claims turned down, we ought not therefore to amend this bill. The purpose of this bill is to give everybody a chance. We can not cover every remote contingency. I can imagine several things that might come up under this bill if my imagination were elastic enough, that would ruin the bill. What we are trying to do is to do justice and equity to the greatest number. We provide the departmental service for those who can not afford the courts, and we provide courts for those who have larger claims and who can afford the courts. There is no reason in the world why a man who has been before a court and has been refused judgment should then be allowed to come before a department for a smaller sum with the expectation that he might touch their hearts and get something. We have been all through this. We gave plenty of time to the discussion of it. It is just a repetition of what we went through before, and it was defeated overwhelmingly when it came to a vote.

Mr. WHITEHEAD. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. WHITEHEAD. This provision that is sought to be stricken out by the gentleman from Minnesota [Mr. NEWTON], the first clause of section 7, which prevents the claimant from going to court after he has been to the department, but does it prevent a claimant from coming to Congress?

Mr. UNDERHILL. No. He can not go to court now. One would think to hear some of these people talk that every claimant there is in the United States has an opportunity now to go to the courts, whereas no mother's son can go to court now. We are providing here so that scores or hundreds may go to the courts, and relieve the Congress, and then perhaps Congress might have some time to take up some of these disputed questions with the department.

Mr. NEWTON. I judge from the gentleman's remarks that he has the idea that my amendment would permit a claimant after having gone to the courts to then go to the departments. My amendment does not affect that provision at all.

Mr. UNDERHILL. I know that.

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

Mr. UNDERHILL. Yes.

Mr. STEVENSON. This language seems to contemplate stopping people from bringing suit upon claims which have been passed on by the departments, where they are given exclusive jurisdiction under subsection (b) of section 1.

Mr. UNDERHILL. Yes.

Mr. STEVENSON. Is the word "exclusively" still in there?

Mr. UNDERHILL. It is not in there.

Mr. STEVENSON. You have struck that out?

Mr. UNDERHILL. Yes.

Mr. BOX. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. BOX. Suppose the amendment of the gentleman from Minnesota [Mr. NEWTON] is agreed to, under this act, will a man who has a claim for $5,000 or less then have a right to go into court?

Mr. UNDERHILL. No; positively no. He has no more right than he has now.

Mr. NEWTON. But by returning to section 3 and passing the amendment suggested by the gentleman from New York, he would have that right.

Mr. UNDERHILL. But we are not going to return.

Mr. NEWTON. Of course, the gentleman can prevent our returning, but I want to adopt a measure that will meet some of the problems that Members have. I am not merely trying to get through a bill.

Mr. UNDERHILL. And neither am I.

Mr. NEWTON. The bill as it is now drawn does not meet our situation.

Mr. UNDERHILL. Gentlemen, I am not trying merely to get through this bill. It does not matter to me whether the bill passes or not. I do not believe there is a Member in Congress, however, that it will not affect sooner or later. One of our Members who never had a claim before this committee and never expected to have a claim all at once had to come before the committee with a claim that involved over 2,000 of his constituents only within a year. You do not know what the Government's activities are going to bring about, and if you let the present situation go on as it is the gentleman from Minne-

sota [Mr. NEWTON] and the gentleman from Texas [Mr. BOX] and the gentleman from Massachusetts will not have a chance before Congress to get their claims even printed. We will have to run overtime to print them.

Mr. NEWTON. As far as the gentleman from Minnesota is concerned, he has no chance now.

Mr. BOX. Mr. Chairman, I crave the indulgence of the House. Much has been said here about the manner in which claims get consideration or fail to get consideration after they have been adversely reported on by the departments.

The chairman has within the hearing of the House said that he takes some responsibility for some arbitrary action. He is probably not quite fair to himself in saying that. I want to say to the Members of the House that I can from my place now cite a great many claims, or at least several that come at once to my mind, where the departments have made adverse reports, where they were referred to the subcommittee of which I am a member, reported favorably, and passed by this House.

Mr. NEWTON. If the gentleman has any influence on his committee, will he kindly have some of my bills referred to his subcommittee? [Laughter.]

Mr. BOX. I fear I am inviting too much work.

Mr. McDUFFIE. If that will be done without the passage of this bill, we do not want to stop the good work.

Mr. BOX. Whatever mistakes we may make, I am quite sure that it is not the rule of the committee to consider the finding of a department as final. I myself, with the support of my colleagues on both sides of the table, and with the support of the chairman of this committee, have caused a number of those departmental reports to be overruled and the bills have been ordered paid by this House.

Mr. DEMPSEY. Is not the gentleman's argument the strongest kind of an argument for passing the amendment proposed by the gentleman from Minnesota? What the gentleman from Texas says is true, that his experience with the department is just what you would expect; that they as a rule determine in favor of the Government, just as you would naturally expect them to do. Now, in all these cases where you say the department has ruled one way and your committee has found that the ruling, justly and fairly and equitably and properly, should be the other way, the poor claimant, if this bill is passed, will have no remedy at all unless you adopt the amendment proposed by the gentleman from Minnesota, and say that after the claim has been rejected by the department the claimant can still go to court.

Mr. BOX. With all respect to the gentleman from New York [Mr. DEMPSEY] and the gentleman from Minnesota [Mr. NEWTON], both able gentlemen, the amendment offered by the gentleman from Minnesota does not touch the question he is aiming at.

Mr. DEMPSEY. Why not?

Mr. BOX. If the gentleman will hear me, I think he will see the reason when I state it. The department under this act settles claims under $5,000.

Mr. DEMPSEY. Wait a minute. When I questioned the gentleman from Minnesota I suggested that we go back to page 3 and strike out, in lines 16 and 17, the words "if the amount exceeds $5,000."

Mr. BOX. If it is proposed to put that in by another amendment, it may accomplish the purpose he has in mind; but by itself it will not avail.

Mr. DEMPSEY. The two things have to coincide, and we expect the committee will make the two things coincide.

Mr. O'CONNOR of Louisiana. Mr. Chairman, will the gentleman yield there?

Mr. BOX. I yield to the gentleman from Louisiana.

Mr. O'CONNOR of Louisiana. I want to ask the gentleman from Texas, does the committee always follow the reports of the departments?

Mr. BOX. I do not always follow the departments for they make mistakes both ways.

Mr. O'CONNOR of Louisiana. Do you follow the department's recommendations where they are favorable?

Mr. BOX. Not in every case, notwithstanding the statement of the chairman, which he makes courageously here. I believe that most members of that committee believe—and there are other gentlemen here who have served on it before—that if a claim comes in with an adverse departmental report and we think it is wrong, it is our duty to do what is right, and we try to do it. If the department recommends an amount that we think ought not to be paid, we do not do it.

Mr. DEMPSEY. There is a question I want to ask with reference to the gentleman's statement. Will the gentleman yield?

Mr. BOX. Yes.

Mr. DEMPSEY. You say that under the present practice when a claim comes in you send it to the department for its recommendation and then when it comes back to the committee you investigate the correctness of their determination. But under this bill you send it down to the department and it makes its determination finally. You do not reserve the right to rectify mistakes or errors of decisions based upon facts which the department puts forth representing the Government.

Mr. BOX. We retain every right that Congress now has.

Mr. DEMPSEY. If it is sent to a department for full investigation and determination, that determination will be final, and you could do nothing.

Mr. BOX. Well, that would be that much relief granted. The remedy is not perfect. But you would have all you have now and more.

Mr. DEMPSEY. You can still go to court?

Mr. BOX. You can go to court.

Mr. DEMPSEY. This opportunity for obtaining relief should be given to the small claimant as well as to the large claimant.

Mr. O'CONNOR of Louisiana. I have a bill for the relief of three men who are employed in the Treasury Department. The Treasury Department has reported favorably upon that bill, and although nothing contrary to that recommendation has been presented to the committee, the committee has never reported out my bill for the relief of those three men.

Mr. BOX. Has the gentleman ever been before the subcommittee or appealed to the chairman for a hearing?

Mr. O'CONNOR of Louisiana. The chairman of the committee [Mr. UNDERHILL] is sitting at the desk and is listening to me. He knows that I have badgered and plagued him for a report, but he is hard-boiled. I do not know why he has not given the relief that I have sought and prayed for without success. [Laughter.]

Mr. BOX. I want to say a word about the work of that committee. The chairman and I are friends, and we try to be coworkers for the Government. Sometimes we put a little different construction on the rules of the committee. I believe that under the rules of the committee when a member requests in writing the reference of a claim to a subcommittee he has a right to have it referred. Sometimes when a man gets an adverse report from the department that ends it with the chairman. Am I right, Mr. Chairman?

Mr. UNDERHILL. If the gentleman will realize that the number of members of the committee is limited, he will understand that if all these requests for reference were granted we would not know how to take care of them.

Mr. BOX. Mr. Chairman, I yield to the gentleman from Tennessee [Mr. McREYNOLDS].

Mr. McREYNOLDS. Mr. Chairman, this bill gives authority to the head of each department to settle claims under $5,000, and according to this bill that is a bar to any suit. What is there in this bill to prohibit the head of any department, after any claim has arisen in that department, from deciding it ex parte?

Mr. BOX. It is on the judgment and responsibility of the branch of the Government that is helping to carry on the Government. They may be wrong sometimes, but there are not many up there, I think, who would just say, "Here is a fellow with a claim and we will just cut him off with no chance to present his facts." There are very few such men in the departments.

Mr. McREYNOLDS. I do not mean to say that men of that character would go that far, but men are prone to believe their own witnesses or those in their own departments, and that might bar a man who had a just claim from having his proofs properly presented.

Mr. BOX. You mean in court?

Mr. McREYNOLDS. No; I mean before the head of a department.

Mr. BOX. The department would be the judge of the sufficiency of the evidence and of the measure of justice which it administers, and then they can come back to the Committee on Claims.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. BOX. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to proceed for five additional minutes. Is there objection?

There was no objection.

Mr. O'BRIEN. Will the gentleman yield?

Mr. BOX. Yes.

Mr. O'BRIEN. It has been stated that Congress retains jurisdiction. Suppose a claim has not been allowed and it comes back to the House for action, what then will be the

procedure? Would it not then be referred to another committee and the party have two days in court or another day in court?

Mr. BOX. If it is a claim which the Speaker would refer to the Claims Committee it will go to the Claims Committee and receive such consideration as they think it ought to have. I have stated two or three times, and I do not think I am in error about it, that ordinarily where a department has gone over it and made an ascertainment about it that that will create a stronger feeling on the part of the committee that the department has probably settled it and settled it right.

Mr. O'BRIEN. In other words, it would give the party two days in court?

Mr. BOX. He would have two days.

Mr. HUDSPETH. Will the gentleman yield?

Mr. BOX. Yes.

Mr. HUDSPETH. I want to see whether or not the gentleman from east Texas and the gentleman from west Texas understand this bill the same. Under the present law department heads are permitted—and I would like the gentleman from New York to follow me in this—to settle claims up to $1,000.

Mr. BOX. I think that is right.

Mr. HUDSPETH. If this bill is passed, as I understand it, it will permit department heads to settle claims up to $5,000?

Mr. BOX. That is right.

Mr. HUDSPETH. Is not that the only change made in the law?

Mr. BOX. As to amount and jurisdiction; yes.

Mr. HUDSPETH. If I understand the idea of the gentleman from New York he desires to confer jurisdiction upon the court, and if that is so he should offer an amendment providing that the court shall have jurisdiction of claims from $1,000 to $10,000. That is the way I follow the gentleman, and I would support this kind of amendment. I want just claims to have a day in court.

Mr. DEMPSEY. If the gentleman will yield, it is suggested, if the present amendment prevails, that then leave will be asked to return to page 3 and strike out the words in lines 16 and 17:

If the amount claimed exceeds $5,000.

Which would give the court jurisdiction of all claims of the nature covered by this bill.

Mr. HUDSPETH. The Federal courts now have jurisdiction of suits where the amount is greater than $3,000.

Mr. BULWINKLE. Arising out of contract.

Mr. HUDSPETH. Yes. Of course, as to cases in tort it would be a different proposition.

Mr. DEMPSEY. I think there is this difference in the law also: I do not think the present jurisdiction of $1,000 claims is exclusive. If a man who has submitted his claim in that way has accepted his remedy, of course, he has no resort to the court; but it will put him in a different attitude if we pass this bill and a great deal worse attitude toward Congress.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Minnesota.

Mr. NEWTON. Mr. Chairman, I would like to have the amendment again reported.

The CHAIRMAN. Without objection, the Clerk will again report the amendment.

There was no objection.

The Clerk again reported the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Minnesota.

The question was taken; and on a division (demanded by Mr. NEWTON) there were—ayes 24, noes 39.

So the amendment was rejected.

The CHAIRMAN. The gentleman from North Carolina [Mr. BULWINKLE] asks unanimous consent to return to section 5 for the purpose of offering an amendment giving the United States Code citation. Is there objection?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: On page 4, line 4, after the word "Code," insert "(United States Code, Title 28, secs. 41 and 250.)"

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 8. (a) The provisions of this title shall not apply to—

(1) Any claim arising out of the loss or miscarriage or negligent transmission of letters or postal matter.

(2) Any claim arising in respect of the assessment or collection of any tax or customs duty.

(3) Any claim for which liability of the Government is recognized by the act of October 6, 1917 (40 Stat. 389), relating to loss or destruction of or damage to personal property and effects of officers and enlisted men and others in the naval service or the Coast Guard; by the act of March 3, 1885 (23 Stat. 350), as amended, relating to loss, damage, or destruction in the military service of private property belonging to officers, enlisted men, and members of the Nurse Corps (female) of the Army; or by the act of March 9, 1920 (41 Stat. 525), or the act of March 3, 1925 (43 Stat. 1112), relating to claims against merchant and public vessels of the United States or of corporations the entire stock of which is owned by the United States.

(4) Any claim arising out of the conveyance, transfer, assignment, or delivery of money or other property or out of the payment to or seizure by the President or Alien Property Custodian of any money or other property in administering the provisions of the trading with the enemy act, as amended.

(5) Any claim arising out of the administration of the quarantine law.

(b) The act entitled "An act to provide for the settlement of claims arising against the Government of the United States in sums not exceeding $1,000 in any one case," approved December 28, 1922, is hereby repealed, except that any claim accruing prior to such repeal may be considered, ascertained, adjusted, determined, and certified in the same manner and to the same extent as if this act were not law.

(c) The provisions of any act, in so far as inconsistent with the provisions of this title, are hereby repealed to the extent of such inconsistency.

Mr. BULWINKLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: On page 5 strike out subsection 3, lines 1 to 15, inclusive, and insert in lieu thereof the following: "(3) Any claim for which settlement is provided by the act of October 6, 1917 (secs. 981–982, inclusive, title 34, United States Code), relating to the loss, damage, or destruction of the property of officers and enlisted men in the naval service, in the Marine Corps, and in the Coast Guard; by the act of March 3, 1885 (secs. 218–222, inclusive, title 31, United States Code), as amended, relating to the loss, damage, or destruction of the property of officers, enlisted men, and members of the Nurse Corps (female) of the Army; or by the act of March 9, 1920 (secs. 741–752, inclusive, title 46, United States Code); or the act of March 3, 1925 (secs. 781–790, inclusive, title 46, United States Code), relating to claims or suits in admiralty against the United States."

Mr. BULWINKLE. Mr. Chairman, there are two purposes to be served by this amendment, first to give the citation to the United States Code and, second, to change the wording of the section in the bill somewhat.

The members of the committee will notice, in line 1, on page 5, the language is "any claim for which liability of the Government is recognized." I do not think this is a good expression to use, and the statement in the amendment is "any claim for which settlement is provided" by the various acts, and so forth. I think this clarifies the language, in this particular as well as in some others.

Mr. UNDERHILL. I think also, Mr. Chairman, that is an improvement.

The amendment was agreed to.

Mr. UNDERHILL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. UNDERHILL: On page 6, in line 6, strike out the period, add a comma, and the following: "And nothing contained in the exceptions in section 8 of this act shall be considered as precluding the Congress from considering claims for injuries or damages arising under said exceptions."

Mr. UNDERHILL. This is merely to clarify the situation, Mr. Chairman.

The amendment was agreed to.

Mr. BULWINKLE. Mr. Chairman, I offer an amendment: On page 6, line 2, after the figures "1922," insert "(United States Code, title 31, secs. 215 to 217)."

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: On page 6, line 2, after the figures "1922," insert "(United States Code, title 31, secs. 215 to 217)."

The amendment was agreed to.

The Clerk read as follows:

TITLE II.—PERSONAL INJURY AND DEATH CLAIMS

SEC. 201. (a) Subject to the limitations of this act the Government of the United States authorizes the payment of claims on account of personal injury or death, if the claim accrued after April 6, 1920, and if the injury or death was either (1) caused by the negligence or wrongful act or omission of any officer or employee of the Government acting within the scope of his office or employment, or (2) attributable to any defect or insufficiency in any machinery, vehicle, appliance, or other materials and such defect or insufficiency was due to the negligence or wrongful omission of an officer or employee of the Government.

(b) No compensation shall be allowed for any such injury or death if the injury or death results from the fact that the person injured or the decedent was intoxicated or under the influence of drugs, or if the injury or death is caused by the willful misconduct of the person injured or the deceased, or by the intention of the person injured or the deceased to bring about injury or death to himself or another. Contributory negligence shall operate to diminish the damages recoverable in proportion to the amount of negligence attributable to the person injured or to the deceased.

(c) No compensation shall be allowed for any such injury or death to the extent that the injury is continued or aggravated, or that the death is caused by an unreasonable refusal or negligent failure to submit to or procure medical or surgical treatment, the risk of which is, in the judgment of the United States Employees' Compensation Commission (hereinafter referred to as the commission), based upon expert medical or surgical advice, inconsiderable in view of the seriousness of the injury.

Mr. UNDERHILL. Mr. Chairman, I offer the usual amendment, changing the date from 1920 to 1925.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. UNDERHILL: Page 6, line 14, strike out the figures "1920" and insert in lieu thereof the figures "1925."

The amendment was agreed to.

The Clerk read as follows:

SEC. 202. (a) Exclusive authority is hereby conferred upon the commission, acting on behalf of the Government, to consider, ascertain, adjust, and determine any claim liability for which is recognized under section 201, if the amount of the claim does not exceed $7,500. Such amount as may be found to be due to any claimant shall be certified to the Congress as a just claim for payment out of appropriations that may be made by Congress therefor, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed: *Provided*, That no claim shall be considered by the commission unless filed within six months after the injury or one year after death caused by the injury, except that for reasonable cause shown the commission may allow claims for compensation for such injury to be filed any time within one year after the injury, and except that any claim accrued after April 6, 1920, but prior to the passage of this act, may be filed within one year after the passage of this act.

(b) Acceptance by any claimant of the amount determined under this title shall be deemed to be in full settlement of the claim against the Government of the United States and the officer or employee.

(c) The commission shall by regulation provide for the form and manner in which claims under this title shall be presented before the commission.

Mr. UNDERHILL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. UNDERHILL: On page 8, in line 6, strike out the figures "1920" and insert in lieu thereof the figures "1925."

The amendment was agreed to.

Mr. BOX. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BOX: On page 7, line 25, after the word "allowed," strike out the colon and insert the words "with a summary of the evidence upon which the allowance was made."

Mr. BOX. Mr. Chairman, this simply makes the clause that deals with settlements made by the Compensation Commission subject to the same regulations that govern a department; that is, when they submit their report they must submit a summary of the evidence upon which they acted.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. Box].

The amendment was agreed to.

The Clerk read as follows:

SEC. 204. (a) The compensation for personal injury shall be paid to the injured individual, except that if the individual dies before compensation has been paid, the compensation shall be allowed and paid as in the case of compensation for death.

(b) Compensation for death shall be allowed and paid as follows:

(1) Compensation shall be allowed only for death caused by injury and occurring within three years after the injury; except that no compensation shall be awarded where the death takes place more than one year after the cessation of disability resulting from such injury, or (in the absence of any such disability preceding death) more than one year after the injury.

(2) The compensation shall be allowed and paid to the following beneficiaries:

(A) To the widow or widower, or if there is no widow or widower, then to the children, share and share alike. Compensation to a child shall not be allowed unless the child is unmarried and is either under 18 years of age or, having reached the age of 18, is physically or mentally incapable of self-support. Compensation for a child under 18 years of age shall be paid to the legal guardian.

(B) To any parent or grandparent who was totally or partially dependent for support upon the deceased at the time of his death, having due regard for the extent of the dependency in cases of partial dependency under this paragraph.

(3) The total compensation which may be allowed on account of any one injury, or injury and death caused thereby, shall not exceed $7,500.

(4) The right of a beneficiary to compensation for death shall not survive the death of such beneficiary.

(c) In addition to the money compensation provided under this title—

(1) In the case of personal injury, the injured individual shall be allowed such expenses for any medical, surgical, and hospital services and supplies (including artificial members and other prosthetic appliances) as the commission adjudges necessary and reasonable for care of or relief from the results of an injury, subject to such regulations as the commission may prescribe with respect to the procurement of such services and supplies.

(2) In the case of death, the personal representatives of the decedent shall be allowed such funeral and burial expenses of the decedent as the commission adjudges to be necessary and reasonable, in an amount not to exceed $200.

Mr. McDUFFIE. Mr. Chairman, I move to strike out the last word in order to ask the gentleman from Massachusetts a question. On page 9 provision is made for the payment of compensation to a child under 18 years of age or to his legal guardian. In some instances the compensation might be in an amount so small that the expense of having issued letters of guardianship might work a hardship, and I suggest to the chairman the possibility of providing that if the amount is under $500 the money may be paid to the parent or to one standing in place of the parent. What would be the objection to that?

Mr. UNDERHILL. I can not see any particular objection, except that all of this was taken verbatim from the compensation act that governs Federal employees. And I would prefer to leave it as it is.

Mr. McDUFFIE. I have known cases where the amount to be paid was so small that the expense of procuring letters of guardianship worked a hardship on the person who was to be benefited.

Mr. UNDERHILL. But those cases are very small in number.

Mr. HARE. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. HARE. On page 10, section 3, the total compensation which may be allowed in a case of injury is $7,500. Suppose in the case of the death of a husband it was found to be due to the negligence of some officer or agent of the Government. Do I understand that the extent of liability would be $7,500?

Mr. UNDERHILL. Yes. That is an increase of $2,500 over anything that is allowed heretofore in the last five years. The practice up to that time was to allow $2,000 or $3,000.

Mr. HARE. Does that take precedence over the provision that would enable the widow to go into court and ask for payment of the claim?

Mr. UNDERHILL. The widow can not go into court now.

Mr. WHITEHEAD. I move to strike out the last word. Did the gentleman's committee consider the question of flood control and damages caused thereby?

Mr. UNDERHILL. The committee did not, but the chairman of the committee went into that very extensively, and on the best advice he could get found that there is no question that suits could not be brought under this bill.

Mr. WHITEHEAD. What provision in the bill prevents it?

Mr. UNDERHILL. No provision in the bill.

Mr. WHITEHEAD. It is damage to property. In the construction of a levee by an engineer of the Government suppose

there was a faulty levee constructed—and there was negligence or some wrongful omission on the part of the engineers of the Government in constructing the levee which should happen to break and overflow the lands of a large part of the country. Would not a case of that sort come under this bill?

Mr. UNDERHILL. I have advice that it would not.

Mr. WHITEHEAD. I would like to know why it would not come under this bill. It would be negligence on the part of the agents and employees of the Government, and the bill specifically provides that the Government shall be liable for damages resulting from the negligence of its officers, agents, or employees.

Mr. UNDERHILL. I will ask the gentleman if he considers that a matter of tort.

Mr. WHITEHEAD. Certainly. It is damage to property, and it would come under the first title of the bill treating of damage to property and damage to property is a tort, as well as injury to the person.

Mr. UNDERHILL. I can not say of my own knowledge. I simply say that I have considered the matter and have consulted with several in reference to it, and they assured me that flood damage would not come under the provisions of this bill.

Mr. WHITEHEAD. It seems to me that it clearly comes under the first title. I would like to have the chairman of the committee or some member of the committee offer an amendment to make that clear, because the chairman of the committee says it was not the intention of the committee that flood-control suits should be brought under this act. I would suggest that at the end of Title I, where cases in which the Government shall not be liable are stated, you add a new section and say something like this—this bill shall not be applicable to cases arising out of the activity of the Government, its agents, or employees relating to flood control.

Mr. GREEN of Iowa. I think I can answer the question of the gentleman from Virginia. I do not understand ordinarily—of course, a case might arise—but ordinarily there is no duty that devolves on the Government to build a levee. If the Government builds a levee, or provides by law for the building of a levee, and it is not sufficient, it would be no cause of action whatever for the party who suffered damage.

Mr. WHITEHEAD. Suppose there is negligence on the part of the engineers of the Government, would not that come under this title?

Mr. GREEN of Iowa. Not unless there is a duty on the part of the Government to build the levee in the first instance.

Mr. WHITEHEAD. But the law provides for that.

Mr. GREEN of Iowa. Oh, no; the law provides that a levee shall be constructed. The Government does that voluntarily.

Mr. WHITEHEAD. I do not see it that way.

Mr. UNDERHILL. I would say to the gentleman that if it is his belief, and that belief is generally accepted by the Members, I would be very glad, indeed, to have him offer an amendment covering that feature, and consider it at the end of the bill.

Mr. MOORE of Virginia. Mr. Chairman, I move to strike out the last word. I suggest to my friend from Massachusetts [Mr. UNDERHILL] that a naked amendment of that sort would not reach the cases that are in the mind of my colleague from Virginia [Mr. WHITEHEAD]. Those cases are not to be confined to the construction of levees, but include all river and harbor work; and if the agents of the Government, any or all of them, in conducting river and harbor work should by negligence or otherwise fail to do the proper thing and cause injury to private property, then under this bill unquestionably there would be liability, and I do not think there can be any doubt that a court would so hold.

Mr. UNDERHILL. Then I would change my suggestion and include the three gentlemen from Virginia—the gentleman from Virginia, Mr. MOORE, and the gentleman from Virginia, Mr. WHITEHEAD, and also the gentleman from Virginia, Mr. MONTAGUE. I suggest that the three of them get together and formulate such an amendment.

Mr. GREEN of Iowa. Let us suppose that a government builds a levee. The levee is built to protect certain lands. Then if that levee is insufficient, I do not see how the government is liable.

Mr. MOORE of Virginia. But the bill provides that when damage is caused by the Government or any agent of the Government there shall be liability. It does not undertake to say how the agent shall be appointed. He is the agent of the Government, and here is a bill explicitly providing that if the agent of the Government does something from which damage results, the Government can be sued and recovery can be had.

Mr. GREEN of Iowa. I fear that I have not paid sufficient attention to the particular form of the bill.

Mr. MOORE of Virginia. My friend is such an able lawyer and has had so much judicial experience that I would be perfectly willing to leave to him the interpretation of the language to which my colleague from Virginia has referred.

Mr. GREEN of Iowa. As the gentleman states the language of the bill, to which my attention had not been called particularly, I am inclined to think that very likely there is something that should be guarded against.

Mr. WHITEHEAD. This bill would place the Government in the situation of an individual, and we all know that if an individual builds a dam across a river and backs up water, and that water injures the property of the riparian owners, he is liable for damages, or if the dam breaks by reason of negligence of the owner and overflows land below, then the owner of the dam or the man who built it is liable.

Mr. GREEN of Iowa. I am very glad that my attention has been called to that. I think we better do that.

The Clerk read as follows:

SEC. 205. As used in this title—

(a) The term "child" means (1) a legitimate child, (2) a child legally adopted prior to the death of the deceased, (3) a stepchild, if a member of the deceased's household at the time of his death, (4) a posthumous child, and (5) an illegitimate child, but as to the father only, if acknowledged in writing by him, or if he has been judicially ordered or decreed to contribute to such child's support or has been judicially decreed to be the putative father of such child.

(b) The term "widow" means the deceased's wife living with or dependent for support upon him at the time of his death, or living apart from him at such time because of his desertion.

(c) The term "widower" means the deceased's husband, but only if dependent in whole or in part for support upon the deceased at the time of her death.

(d) The term "parent" means a father, mother, father or mother through adoption, stepfather, stepmother, and persons who have stood in loco parentis to the deceased for a period of not less than two years just prior to his death.

(e) The term "grandparent" means a grandfather or grandmother.

Mr. COCHRAN of Missouri. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. COCHRAN of Missouri: Page 11, subdivision (c), strike out lines 10, 11, and 12 and substitute the following: "(c) The term 'widower' means the deceased's husband living with her at the time of her death."

Mr. COCHRAN of Missouri. Mr. Chairman, the necessity for securing legislation of some kind to reimburse those who are to be provided for in this bill is so great I propose to vote for this measure rather than postpone the day of getting relief in these cases, although I want to say there are certain provisions in the bill which do not have my approval.

We are conferring a judicial power upon the Compensation Commission, as it differs from the workmen's compensation act in this, that under the workmen's compensation act compensation is granted to any employee who is injured in the performance of his duty, and very little is left to the commission except the determination of the nature and extent of the injury.

The amendment I offer provides that the term "widower" means the deceased's husband living with her at the time of her death.

Under the wording of subdivision (c) a husband can not recover unless it could be shown he was financially dependent upon his wife.

By the death of a wife the husband suffers not only the loss of companionship but very grievous financial loss. It might be necessary for him to employ some one to take care of his home, or to place his children with some relative or in some boarding school or home at a very considerable expense, and to deprive him of recovery under such circumstances simply because he was not financially dependent for support upon his wife would be a very great injustice.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Missouri.

The question was taken; and on a division (demanded by Mr. UNDERHILL) there were—ayes 10, noes 30.

So the amendment was rejected.

Mr. WELSH of Pennsylvania. Mr. Chairman, I move to strike out the last word for the purpose of asking the chairman of the committee what provision is made for an illegitimate child where the father has not been determined by a judicial inquiry?

Mr. UNDERHILL. This whole matter pertaining to these claims is taken verbatim from the Federal workmen's compensation act. I did not feel justified in changing the provisions

of that act or placing the citizens in a different class from the employees of the Government.

Mr. WELSH of Pennsylvania. Does not the gentleman think that an illegitimate child of a woman who has been injured as a result of negligence on the part of the Government stands in a more deserving position, from the standpoint of equity, than the employee of the Government?

Mr. UNDERHILL. It might be, but I did not feel that I was the one to adjudicate that question when it had been gone over by those who are wiser than I.

Mr. WELSH of Pennsylvania. I would like to have an opportunity to offer an amendment under this section, Mr. Chairman. I have not the amendment written out.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

Mr. WELSH of Pennsylvania. I have not written it out. It is in line 5, of page 11, after the word "child," to amend by inserting the words "*Provided*, That an illegitimate child, whose father has not been judicially determined by a competent court, shall have the same rights as a legitimate child under this act." I may ask leave to change the exact wording a little later on.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Pennsylvania.

The Clerk read as follows:

Amendment offered by Mr. WELSH of Pennsylvania: Page 11, line 5, after the word "child," insert "*Provided*, That an illegitimate child whose father has not been determined by a competent court shall have the same rights as a legitimate child under this act."

Mr. WELSH of Pennsylvania. Mr. Chairman and gentlemen of the House, I offer this amendment for this reason: The illegitimate child has a definite status under the laws of most of the States of the Union. Under the laws of many of the States an illegitimate child whose father has not been determined by a competent court and his right of support fixed by such court inherits from the mother. Unless this bill is amended in such a way as has been proposed, if the mother of an illegitimate child is killed as the result of negligence on the part of the Government of the United States and that child's father has not been determined by a competent court, that illegitimate child, notwithstanding the fact that the death of the mother has resulted from the negligence of the United States Government, has no redress.

I ask Members of the House if that is a fair method of dealing with a child whose rights and chances are hard enough anyhow?

Mr. MOORE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. WELSH of Pennsylvania. Yes.

Mr. MOORE of Virginia. If the bill should pass as it stands and there were a failure to adopt the gentleman's amendment, the provision would be at variance with the laws in effect in all the States?

Mr. WELSH of Pennsylvania. Yes.

Mr. HUDSPETH. Does the gentleman's amendment cover children who are the issue of a common-law marriage? A common-law marriage in my State is recognized.

Mr. WELSH of Pennsylvania. It is so in Pennsylvania, my State. In such a case no question would arise in my State.

For many years I have had occasion to deal with illegitimates in the great city of Philadelphia, and the hardship is plain. I think if you could see this question in all its fullness you would say that this is only common justice and equity. I do not think the Members of the House will want to withhold fair play to an illegitimate child who is born into the world without any fault of its own and whose lot in life is hard enough anyhow. I do not care whether the law with reference to the Federal compensation is in accordance with this amendment or not. We are here to do justice as we see it under the circumstances, and, gentlemen of the House, I hope you will pass this amendment. [Applause.]

MESSAGE FROM THE SENATE

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had passed without amendment a bill of the following title:

H. R. 8216. An act to confer authority on the United States District Court for the Western District of Virginia to permit J. L. Sink, a bankrupt, to file his application for discharge and to authorize and empower the judge of said court to hear and determine the same.

The committee resumed its session.

GENERAL CLAIMS BILL

Mr. UNDERHILL. Mr. Chairman, as I have said before several times, the bill is not intended to cover every individual case or remote cases of imagination which might be conjured up. It is supposed to be general in its character. The phraseology of this section of the bill is taken literally, verbatim, word for word, and punctuatam from the regular Federal compensation law. I do not think I am justified in passing judgment upon the wisdom of that law or attempting to amend it and give to the general citizenship of the country a status different from that given to any other class; that is, Federal employees. We might possibly be touched in our hearts and feel a great sympathy with the amendment offered by the gentleman, but I think it would be very unwise to change the compensation law in this particular respect.

Mr. BULWINKLE. That is the thing we are trying to get away from, as in the case of the amendment offered by the gentleman from Missouri [Mr. COCHRAN]. Without the amendment of the gentleman from Missouri if any Member of this House is not dependent on his wife for support and his wife is killed he could not recover one cent from the Government. He could not recover unless he could show dependency. We are not trying to enact a compensation law as to all classes in the United States. I think careful consideration should be given to some of these amendments.

Mr. McDUFFIE. If this law is put on the statute books it is going to be regarded by many people as something that ought not to be changed. I think, regardless of what the committee is going to do, the suggestion made by the gentleman bears out other suggestions that have been made here. When once we write this into law it will become more and more difficult to get relief for claimants.

Mr. BULWINKLE. I do not think that was understood when we voted on the Cochran amendment.

Mr. HUDSPETH. Is the gentleman opposed to the amendment offered by the gentleman from Pennsylvania, under which many cases might be included?

Mr. BULWINKLE. Oh, no.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Pennsylvania [Mr. WELSH].

The question was taken, and the Chairman announced that the "ayes" seemed to have it.

Mr. UNDERHILL. Mr. Chairman, I ask for a division.

The CHAIRMAN. A division is asked for. The question is on agreeing to the amendment.

The committee divided; and there were—ayes 31, noes 23.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 208. The provisions of this title shall not apply to—

(a) Any claim for which compensation is provided by the Federal employees' compensation act, as amended, or by the World War veterans' act of 1924, as amended.

(b) Any claim for injury or death incurred in line of duty by any member of the military or naval forces of the United States in cases where relief is provided by other law.

Mr. BULWINKLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: Page 14, line 19, after the word "amended," insert "(United States Code, title 5, ch. 15)."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BULWINKLE. Mr. Chairman, I offer another amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: Page 14, line 20, after the word "amended," strike out the period, insert a comma and "(United States Code, title 38, ch. 10, as amended)."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 209. The act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, as amended, is amended by adding at the end thereof a new section to read as follows:

"SEC. 43. That this act may be cited as the Federal employees' compensation act."

Mr. BULWINKLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: Page 15, line 4, after the word "amended," insert "(United States Code, title 5, ch. 15)."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 301. When used in this act—

(a) The term "department or establishment" means any executive department or independent establishment not in the legislative or judicial branches of the Government, or any corporation acting as a governmental instrumentality or agency in which the United States owns or controls 51 per cent or more of the voting shares and securities;

(b) The term "officer or employee of the Government" means any officer or employee of any department or establishment as above defined, any member of the military or naval forces of the United States, or any other person acting on behalf of the United States in any official capacity under or by authority of any such department or establishment; and

(c) The term "acting in the scope of his office or employment," in the case of any member of the military or naval forces of the United States, means acting in line of duty and, in the case of an officer or employee of any corporation acting as a governmental instrumentality or agency, means acting in the execution of a governmental activity.

Mr. UNDERHILL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. UNDERHILL: Page 15, line 16, strike out the semicolon, add a comma, and the following: "but shall not include the Panama Railroad."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 302. In any claim brought under this act the head of the executive department or other independent establishment or governmental instrumentality shall, as a part of the determination or decision, determine and allow reasonable attorney's fees, not to exceed 15 per cent of the amount recovered, if recovery be had, to be paid out of the amount recovered to the attorneys of the claimant. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount other than that allowed under this section, if recovery be had, shall upon conviction thereof be subject to a fine of not more than $2,000 or imprisonment for not more than one year, or both.

Mr. UNDERHILL. Mr. Chairman, I offer an amendment. On page 16, line 7, after the word "establishment," insert a comma and the word "court," so as to read: "establishment, court, or governmental instrumentality."

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. UNDERHILL: Page 16, line 7, after the word "establishment," insert a comma and the word "court."

Mr. BLANTON. So that the limitation as to the fees an attorney may lawfully charge will apply to a judgment in court as well as to an adjudication by the department. That is the purpose of the amendment?

Mr. UNDERHILL. Yes. That was inadvertently left out.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HUDSPETH. Mr. Chairman, I offer an amendment. In line 9, page 16, strike out the figures "15" and insert the figures "10."

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HUDSPETH: Page 16, line 9, strike out the figures "15" and insert in lieu thereof the figures "10."

Mr. UNDERHILL. Mr. Chairman, I am not going to offer any strenuous objection to this except to say it has been the practice of the committee in the past to make this a 15 per cent limitation. I have never tried a case in my life and therefore, as I say, I shall not make any strenuous objection to this amendment.

Mr. HUDSPETH. I want to say, Mr. Chairman, that when they go before a department a Congressman will do the work, so that if an attorney receives 10 per cent that is sufficient.

Mr. RAMSEYER. Mr. Chairman, just a word before we rush over this hastily. This includes an action in court, and there is not a lawyer here who has taken a case in court on a contingent basis that has ever charged as little as 10 per cent where his entire fee depended upon the success of his efforts.

Mr. HUDSPETH. Does the gentleman contend that when an attorney presents a case to the department through his Congressman he ought to have as much as 15 per cent?

Mr. RAMSEYER. But this includes cases in court.

Mr. HUDSPETH. Since the gentleman has stated that this includes cases in court, I think the lawyers ought to receive more than 10 per cent, and I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to withdraw his amendment. Is there objection?

There was no objection.

Mr. BLANTON. Mr. Chairman, I offer an amendment to strike out the enacting clause.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. BLANTON: On page 1, lines 1 and 2, strike out the enacting clause.

Mr. BLANTON. Mr. Chairman, I do this, knowing there is no chance in the world of accomplishing my purpose, but I do it to expedite the time of the House. There ought to be a roll call on this bill, but it is so late I hesitate to ask the Members to come over when so few would register their votes against this bill.

This is one of the wildest pieces of legislation that has been sought to be passed since I have been here, and it is going to come home to plague some of you as sure as you live. We can get at least a rising vote here, and I take it there will be half a dozen here who will vote against the bill, and there ought to be a record here that at least half a dozen Members of this House do not believe in this kind of legislation, and do not believe in passing the responsibility which the Constitution places upon our shoulders to some bureau chief.

Mr. TILSON. Will the gentleman yield?

Mr. BLANTON. I yield.

Mr. TILSON. The gentleman can get a roll call on this bill if he will allow it to go to the previous-question stage. We shall not have the roll call to-night, but will have it to-morrow.

Mr. BLANTON. With that understanding, Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read as follows:

SEC. 303. Section 173 of the Judicial Code is amended to read as follows:

"SEC. 173. No claim shall be allowed by the accounting officers or the head of any executive department or other independent establishment or governmental instrumentality or by any court of the United States, or by the Congress to any person where such claimant or those under whom he claims shall willfully, knowingly, and with intent to defraud the United States have claimed more than was justly due in respect of such claim or presented any false evidence to Congress or to any department, establishment, instrumentality, or court in support thereof."

Mr. BULWINKLE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: Page 16, line 18, after the word "Code," insert a comma and the following: "(United States Code, title 28, sec. 280)."

The amendment was agreed to.

Mr. McDUFFIE. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Alabama offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. McDUFFIE: Page 17, line 1, strike out line 1 after the word "have" down to and including the word "or," in line 2.

Mr. McDUFFIE. Mr. Chairman and gentlemen, this amendment strikes out the language, "claimed more than was justly due in respect of such claim." Who is going to be the judge of whether they have claimed more than was justly due? I submit to the chairman of the committee that it is perfectly proper to bar a claim and the man who makes a false affidavit in an effort to establish a spurious claim. This is proper and should be done, but when you go so far as to say that a man must be barred because he has claimed more than is justly

due, then you are entering a field where it is almost impossible for anybody to pass judgment on the merits of a case.

Mr. UNDERHILL. Will the gentleman yield?

Mr. McDUFFIE. Yes.

Mr. UNDERHILL. This is the exact wording of the law which has worked so efficiently and so delightfully that I do not know but what it may be followed here.

Mr. McDUFFIE. The gentleman repeatedly, this afternoon, has referred to a law that is already upon the statute books. We are trying to improve the law, as I take it. Just because it is now the law does not make it a sacred thing. Again I say, the very reason I am fearful about the results of this legislation is that when we come to Congress hereafter with a bill for the relief of some claimant, some one on the floor will refer to this statute and say, "By express act of Congress you have had your day in court, and the department has said you are not entitled to relief; therefore I object to the consideration of the bill."

The laws that are already on the statute books are subject to change. Are our laws to be like the laws of the Medes and Persians? If necessary, any statute should be changed to meet new conditions. Who is going to pass judgment on the question of whether a man is claiming more than is justly due? It looks to me as if it were a foolish provision.

Mr. BEEDY. Will the gentleman yield?

Mr. McDUFFIE. I yield with pleasure to the gentleman from Maine.

Mr. BEEDY. I would like to ask the chairman a question. The gentleman states this law has long been on the statute books. How in the world has any claim ever been passed upon that involved this broad question as to what was justly due or that the amount claimed was more than was justly due?

Mr. UNDERHILL. Well, I suppose some man with a mind that was trained in some law school thought this was necessary. I do not know.

Mr. McDUFFIE. I doubt that very much.

Mr. UNDERHILL. I am not the author of it, and would never have written it except you will notice on the same page the language, "shall willfully, knowingly, and with intent to defraud," and so forth.

Mr. RAMSEYER. The chairman has the correct idea about that. It is not the presenting of claims for more than is justly due, but the presentation of such a claim, willfully, knowingly, and with intent to defraud. That is what is intended to be covered in this section.

Mr. BEEDY. If the gentleman please, if a man has presented a claim which has been proven to have been willfully and knowingly presented with intent to defraud, then the rest of it is mere surplusage.

Mr. RAMSEYER. No; if he presents a claim for more than is justly due or presents any false evidence, willfully, knowingly, and with intent to defraud. It is not the mere presentation. Some witness might give false evidence. The mere filing of false evidence alone would not be sufficient to bar his claim. The claimant must do this willfully, knowingly, and with intent to defraud.

Mr. McDUFFIE. Then is not the language with respect to claiming more than is justly due mere surplusage? Of course, if the claimant is willfully and knowingly trying to defraud the Government that is as far as we need go.

Mr. RAMSEYER. If a person presented a claim for $10,000 and honestly thought he was entitled to that amount, when in truth and in fact he was only entitled to $3,000——

Mr. McDUFFIE. Who is going to say whether or not he was honest in doing that?

Mr. RAMSEYER. Of course, the question of fraud and of willfulness and whether it was knowingly done has to be determined by somebody. As to claims up to $5,000 this will be decided by the department head and from $5,000 up it will be decided by the courts.

Mr. McDUFFIE. Suppose a claim was filed for many times as much as ordinarily would seem to be just and right?

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. RAMSEYER. Mr. Chairman, I move to strike out the last two words, in order to give the gentleman from Alabama an opportunity to finish his statement.

Mr. McDUFFIE. Suppose the department head were to decide that the claim was for so much more than seemed proper it was willfully done with a view to defraud the Government. I dislike to find myself differing with many here whose judgment I respect so much, but I am very fearful as to the results of this legislation. It occurs to me that we should provide some machinery in this House to deal with this problem and not surrender the legislative prerogatives of the Congress to the bureaus of this Government. I am not unmindful of the apparent difficulties confronting the Claims Committee, but it does seem that we are here proposing to shift our responsibilities to those bureaus. Surely we already have enough bureaucratic control in our Government. These bureau chiefs and department heads already have just as much as they can do. I do not believe they want any such further responsibilities placed upon them. To make them judges of the law and the facts and give them the power to determine in ex parte proceedings the rights of citizens having claims against the Government, is carrying this thing too far. If the Congress is incapacitated to deal with this problem of claims against the Government then I am mistaken in my judgment of the ability of its Members. If the Claims Committee, composed as it is of most estimable and hardworking Members, can not cope with the problem, let us enlarge the membership of the committee, or create within the membership of the Congress an additional committee or commission to aid in the adjudication of these claims.

The language of this section was written in another law, wherein a commission passed judgment upon claimants' rights; but here one man, a bureau chief, can, if he is so disposed, arbitrarily decide that the claim filed, because of the amount asked, is filed with the willful intent to defraud, and where on earth is there any right to appeal from his decision in so far as this bill is concerned? With all due deference and respect for those who have sponsored this bill, I believe the day will come when they themselves will regret writing into the law of our land the provisions of this bill. I realize my protest against this bill will not prevent its passage, but I can not remain silent nor can I approve this venture into a new, unknown, and uncharted sea. I fear for those citizens who may come in the future to their Government praying for relief in small amounts. Why should Members of Congress remain here if our bureaus are to legislate? We surrender more and more every year to bureaucracy. What will the harvest be?

Mr. RAMSEYER. I will say to the gentleman that, so far as this language is concerned, I think it is all right. I am opposed to the first title of the bill, and I am going to vote against it.

Mr. McDUFFIE. I think we will all rue the day we vote for it.

Mr. RAMSEYER. If the first part of the bill were properly guarded and provided for judicial review in claims up to $5,000, where the chief or head of the department has passed upon it and decided against it, and a proper limitation placed on the amount the Government could be sued in tort cases, I might vote for it. However, this particular provision is all right, and I think is a proper provision in the law. The vicious part of the bill is Title I as it now is before us.

Mr. UNDERHILL. This very language has been used in the law ever since 1874, and I do not know that anyone has ever questioned it.

Mr. BEEDY. May I now ask the gentleman a question?

Mr. RAMSEYER. I yield.

Mr. BEEDY. I ask this question of the gentleman as a lawyer. If after one proves a case of fraud, does not this language add an additional burden?

Mr. RAMSEYER. The claimant is not in there to prove fraud.

Mr. BEEDY. Suppose we attempt to punish a man under this provision, and having proved that he is guilty because he presented a fraudulent claim, why go further and necessitate proof that he has asked for more than was justly due? Who knows what is justly due?

Mr. RAMSEYER. If he seeks more than is justly due with intent to defraud, his claim must be disallowed under this section. If it was without such intent, it does not bar him.

Mr. McDUFFIE. Would not he be shut out absolutely if the officer or department head passing upon his claim decided his claim was fraudulent and that he was not entitled to anything? Remember, too, from that decision he has no appeal.

Mr. RAMSEYER. The trouble is not with this section; the trouble lies in the first title of the bill.

Mr. McDUFFIE. We may have to take the bill whether we like it or not.

Mr. RAMSEYER. Then vote to defeat it, as I intend to do.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken, and the amendment was rejected.

The Clerk proceeded with and concluded the reading of the bill.

Mr. MONTAGUE. Mr. Chairman, I move to strike out the last word. My own views on the bill are so firmly fixed that I will not have relieved myself of my duty unless I express my opposition to the measure. I am opposed to the bill for many reasons. There is no time now for me to express them in any systematic way. In the first place, looking at it as a

protection to the Government, claims for injuries and damages will be determined by the clerical force of the departments—and that is the danger of the measure—we leave it to this clerical force, without qualification or training, to decide claims for negligence up to $5,000.

Are we, the representatives of the Government, to turn over this great duty to pass upon claims amounting to millions and millions of dollars to officials without qualifications and wholly unjudicial by reason of the very nature of this work? I should hope not.

Second, the bill denies to all claimants of damages up to $5,000 and under the right of suit or the right of review. I repeat this, because in claims exceeding this amount, on the other hand, there is given the right of suit in court to those whose claims exceed this amount. Therefore we make a marked discrimination between the poor people and the well to do, between claims of $5,000 and those of larger sums, giving one remedy to one and two remedies to the other. I for one am not willing to subscribe to such arbitrary inconsistency, to such cruel injustice.

Coming now to the practical working of the bill, whenever the certification by these clerks is against the payment of the claim, I submit that will end it. The reply is made that there will be as much right then to introduce a bill into the House as now. Technically that is true, but practically that is not true, because as soon as the bill is rejected by the department you will not be able to bring it up in this House again, no matter how meritorious it may be. Why? Because the bill has been rejected in pursuance of the law that gave the specific power to the department to do that very thing.

Those are some of the reasons why I suggest that we are not improving our present unhappy condition and why I think we will suffer less from the injustices we bear than those to which we would fly. [Applause.]

Mr. BULWINKLE. Mr. Chairman, I ask unanimous consent to return to page 11, line 10, for the purpose of reoffering the amendment offered by the gentleman from Missouri [Mr. COCHRAN], which I know the Members of the House did not understand when they voted it down.

The CHAIRMAN. The gentleman from North Carolina asks unanimous consent to return to page 11 for the purpose of offering an amendment. Is there objection?

There was no objection.

Mr. BULWINKLE. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: Page 11, subsection (c), strike out the subsection and substitute the following:

"(c) The term 'widower' means the deceased's husband living with her at the time of her death."

Mr. BULWINKLE. Mr. Chairman, under the provisions of this section of the bill no man could recover for the wrongful death of his wife unless he were dependent upon her for his support. In the Committee on Claims we have had claims in which constituents of ours have been given certain amounts, usually $5,000, on account of the wrongful death of a wife. It would not make a particle of difference who the man was, whether it be you or one of your constituents, who lost his wife through any kind of negligence on the part of any Government employee acting within the scope of his authority, under the language of the bill you could not recover one cent, because you are not dependent upon her. I think this amendment clearly should be agreed to if the bill is to become a law.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from North Carolina.

The amendment was agreed to.

Mr. WHITEHEAD. Mr. Chairman, I ask unanimous consent to return to page 5 for the purpose of offering an amendment.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. WHITEHEAD. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. WHITEHEAD: Page 5, after subsection (5), add two new subsections, as follows:

"(6) Any claim arising out of the activities or work of the Government, its agents or employees, relating to flood control.

"(7) Any claim arising out of the activities of the Government, its agents or employees relating to river and harbor work."

Mr. GREEN of Iowa. Mr. Chairman, just one word. I entirely agree with the amendment offered by the gentleman so far as it goes, but think we ought to have a very much broader provision. However, I agree that the bill will be improved with this provision, but I hope when it goes to the other House it will be broadened.

Mr. WHITEHEAD. I think that covers those propositions about as broadly as you can make it. There may be other things that should be included as well. In the event there is a committee on conference on this bill, that committee might work out a much broader amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia.

The amendment was agreed to.

Mr. UNDERHILL. Mr. Chairman, I move that the committee do now rise and report the bill to the House with the amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LAGUARDIA, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 9285) to provide for the settlement of claims against the United States on account of property damage, personal injury, or death, and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

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

The previous question was ordered.

EXECUTION OF CERTAIN AGREEMENTS OF INDEMNITY

Mr. GREEN of Iowa. Mr. Speaker, I present a privileged report by direction of the Committee on Ways and Means.

The SPEAKER. The gentleman from Iowa presents a privileged report, which the Clerk will report.

The Clerk read as follows:

Report on the bill (H. R. 10954) to authorize the Secretary of the Treasury to execute agreements of indemnity to the Union Trust Co., Providence, R. I., and the National Bank of Commerce, Philadelphia, Pa.

The SPEAKER. Ordered printed.

INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. CRAMTON, from the Committee on Appropriations, submitted for printing under the rule a conference report and accompanying statement on the bill (H. R. 9136) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1929, and for other purposes.

AN UNDESIRABLE LOBBYIST

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent to proceed for three minutes in reference to a matter involved in the conference report on the Interior Department appropriation bill; and I also ask unanimous consent to revise and extend my remarks in the RECORD.

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

There was no objection.

Mr. CRAMTON. Mr. Speaker, a circular of scandalous character has been distributed among many Members. None was sent to me by its author, though it is directed against me, but a copy was handed to me. It contains a number of elaborate misrepresentations and falsehoods, as I myself would know to expect from the signatures, but the House should understand it as well.

The circular reads as follows:

FEBRUARY 15, 1928.

ONE MAN DOMINATING THE SENATE AND HOUSE—THE SHAME OF THE FLATHEAD INDIAN SPOLIATION

An unconscionable situation has come about.

Against a unanimous Senate and the unanimous action of the Senate conferees, the spoliation of the Flathead Indian Tribe is about to be insured, and the biggest water power in the Northwest is about to be given to the lowest corporate bidder for a sum more than $11,000,000 below the proper commercial rental.

The House, totally uninformed, is being used as a battering ram by one man—Mr. LOUIS C. CRAMTON, chairman of Appropriations for the Interior Department.

Mr. CRAMTON closed his appropriations hearings to those who would have exposed his scheme.

He and his House conferees refused to sit with the Senate conferees to hear the realities presented. Even Senators WALSH, WHEELER, and LA FOLLETTE could not be heard by Mr. CRAMTON.

No word of debate on this outrageous scheme has passed on the House floor.

Because Mr. CRAMTON tied this scheme into the general appropriation bill, he apparently will triumph in it. The Senate can not permanently hold up the general appropriation bill.

House Members might yet redeem the situation if they would rise on the floor and insist on the light being shed.

What a spectacle of parliamentary government!

THE AMERICAN INDIAN DEFENSE ASSOCIATION (INC.).
THE NATIONAL COUNCIL OF AMERICAN INDIANS (INC.).
THE FLATHEAD TRIBE,
By A. A. GRORUD, *General Attorney for the Tribe.*

No spoliation of the Flathead Tribe is about to be "insured." No water power is about to be given to the lowest corporate bidder. The Interior bill gives no water power to anyone, it only authorizes the Federal Water Power Commission "in accordance with the Federal water power act and upon terms satisfactory to the Secretary of the Interior to issue a permit," and so forth. The House is not totally uninformed, but on the contrary many of its Members have for three years made a study of the Flathead problem, long hearings of reputable witnesses have been held, and the question has been several times before this House; and the proposition now in the bill is substantially as sent to Congress by the President in his budget. I did not close our hearings to anyone who could give our committee information, but we did not, for obvious reasons, hear John Collier or this Grorud person.

From whom, then, can come such effrontery, such scandalous mess of falsehoods?

It is signed by the American Indian Defense Association (Inc.), which is run by John Collier, whom I discussed on this floor. Also signed by the National Council of American Indians (Inc.), a subsidiary of the other corporation.

Also it is signed "The Flathead Tribe, by A. A. Grorud, general attorney for the tribe," who no doubt wrote it.

He is not their attorney, general or special. What he really is is set forth in a letter addressed to Mr. Richard A. McLeod, an Indian of Ronan, Mont., from Mr. R. Lee Word, who is an ex-judge of the Supreme Court of Montana, which reads as follows:

HELENA, MONT., *December 24, 1927.*

MR. RICHARD A. MCLEOD,
Ronan, Mont.

DEAR SIR: I answer your letter of the 16th, but mailed the 19th, as follows:

In June of last year was employed to look into the estate of H. H. Potting, deceased, and find why it was that with no claims of any consequence and no debts there was no money for the heirs who lived in St. Louis.

Looked into the matter, examined the records of the court in the case, talked with the judges, the county attorney, and others, and learned:

That Grorud had been both the attorney for the purchaser of the property belonging to the estate and attorney for the estate at one and the same time, without the knowledge or consent of the judges of the court of this county.

That Grorud had been given a check for $250 by his client, the purchaser of the property, to buy of the estate he represented its property. This check Grorud deposited to his own credit in the bank.

Grorud made a bid of $250 for the property of the estate and the return of sale and the order confirming sale as originally made and filed recited that the property of the said estate had been sold for $250; but

After said papers and orders had been filed in and become a part of the records in said case Grorud erased said figures $250 or attempted to do so, and wrote over them the figures $131.15 as the amount bid by his client for the property of said estate.

To put it succinctly, I charged Grorud with having committed in the Potting case a fraud upon the court; with having altered and mutilated the records of said court; with having embezzled $118.85 of the moneys of said estate; with having filed false vouchers in said estate; and I am informed that the attorney selected by the supreme court of the State to make a preliminary survey of the charges contained in the complaint filed by me was reported to the court that each and all of said charges are sustained by the record and evidence.

Does the above answer your letter?

Yours very truly,

R. LEE WORD,
Attorney at Law.

Guilty of fraud upon the court, altering and mutilating records of the court, embezzling small sums from his Indian clients, for whom he pretends to be so zealous, he is now trying to show cause why he should not be disbarred.

I also desire to put into the RECORD a statement from the Commissioner of Indian Affairs, Hon. Charles H. Burke, in which he charges Mr. Grorud with falsehoods, and says he is not now attorney for the Indians, but when he was their attorney he was so negligent that the Flatheads lost important rights:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, January 30, 1928.

HON. REED SMOOT,
Chairman Interior Department Subcommittee,
Appropriations Committee, United States Senate.

MY DEAR SENATOR SMOOT: Referring to the statement of A. A. Grorud before the Appropriations Committee this morning that there was an understanding that he would not be expected to file a petition in behalf of the Flathead Tribe under the Flathead jurisdictional act of March 13, 1924 (43 Stat. L. 21), and also his statement about splitting attorney fees; you are advised that both of these statements made by Mr. Grorud are without any basis of fact and are absolutely false in their entirety.

Mr. Grorud had a contract to represent the Flathead Indians under the jurisdictional act, but he failed to file the petition in the Court of Claims within the time limit in that act, and therefore the Flathead Indians have lost their opportunity to prosecute their claims under the jurisdictional act because of the neglect and failure of Mr. Grorud to perform his duties under the contract.

It is contended by Mr. Grorud that he has authority to represent the Flathead Tribe on other tribal matters. This also is an incorrect statement. The law—section 2103 of the Revised Statutes—requires such contracts to be approved by the Commissioner of Indian Affairs and the Secretary of the Interior, but no such contract with Mr. Grorud has ever been approved.

Mr. Grorud has attempted to collect considerable money amounting to approximately $10,000 from the Flathead tribal funds for alleged services rendered to the tribe as their alleged attorney. This claim has not and will not be paid because he has no such contract and no authority under existing law to represent those Indians in tribal matters other than as referred to in the contract under the jurisdictional act.

The statements of Mr. Grorud before the committee, both on Saturday and this morning, in regard to Indian matters generally, are equally as untrue as are his other statements referred to herein.

The five-year program criticized by Mr. Grorud is one of the outstanding efforts of the Indian Bureau to make Indians industrious and self-supporting citizens, so that they may live in good homes, cultivate their lands, raise stock, and have an income of their own.

Mr. Grorud has repeatedly tried to create the impression, both in the minds of the Flathead Indians and in the minds of the public at large, that the Indian Bureau is endeavoring to deprive the Flathead Indians of their rights to the proceeds from the Flathead power sites. No such action is contemplated by the Indian Bureau. Our contention is that the net proceeds from the power development on the Flathead Reservation should go to the Flathead Indians. However, no contract of any kind has been made in regard to the development of the power sites on the Flathead Indian Reservation.

Cordially yours,

CHAS. H. BURKE, *Commissioner.*

I call attention to this letter so that the House may understand what kind of an irresponsible and undesirable mind could originate such a circular as is put before you. The courts of Montana can disbar him from practicing before them. Congress should be able to exile such an undesirable lobbyist from its corridors.

As to the matter referred to therein, the claim that the Flathead Indians are being despoiled of what belongs to them, and that the water power is being given to a great corporate bidder, that will be brought up for discussion in the consideration of the conference report hereafter.

REPLY OF PUBLIC PRINTER GEORGE H. CARTER TO THOMAS L. BLANTON

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

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

There was no objection.

Mr. BLANTON. In connection with my report on the Government Printing Office, which was printed in the RECORD of December 7, 1927, the Public Printer desires to have his defense of his office go in the permanent RECORD in connection with that report at the end of my speech. I have submitted the matter to the Speaker, and it is satisfactory to the Speaker. The personal allusions in his letter have been shown to the Speaker and they will be eliminated. I ask unanimous consent that that be inserted in the permanent RECORD at the end of my speech December 7, 1927, in accordance with the arrangement with the Speaker.

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

Mr. BLANTON. Yes.

Mr. SNELL. I understand nothing is to be inserted but that letter?

Mr. BLANTON. Nothing else. Some personal allusions in the letter are to be eliminated, which the Speaker understands.

Mr. SNELL. He approves of it?

Mr. BLANTON. Yes.

Mr. TILSON. This is in relation to the letter received from the Public Printer some time ago?

Mr. BLANTON. Yes. That letter, with the personal allusions eliminated, goes into the permanent RECORD at the end of my report of December 7, 1927.

The SPEAKER. Is there objection?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, Mr. THOMPSON was granted leave of absence, from Monday, February 13, to Saturday, February 18, inclusive, on account of business.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2348. An act granting the consent of Congress to the Norfolk & Western Railway Co. and Knox Creek Railway Co. to construct, maintain, and operate two bridges across the Tug Fork of Big Sandy River near Devon, Mingo County, W. Va.

ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 10 minutes p. m.) the House adjourned until to-morrow, Friday, February 17, 1928, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Friday, February 17, 1928, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON LABOR

(10 a. m.)

To divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases (H. R. 7729).

COMMITTEE ON THE JUDICIARY

(10 a. m.)

Providing for the garnishment of and levy of execution on wages and salary of civil employees of the United States (H. R. 8322).

COMMITTEE ON THE LIBRARY

(10.30 a. m.)

To consider proposals to erect monuments and tablets.

COMMITTEE ON MILITARY AFFAIRS

(10.30 a. m.)

To consider proposed legislation on Army construction.

COMMITTEE ON AGRICULTURE

(10 a. m.)

To establish a Federal farm board to aid in the orderly marketing and in the control and disposition of the surplus of agricultural commodities in interstate and foreign commerce (H. R. 7940).

COMMITTEE ON ROADS

(10 a. m.)

To amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads," approved July 11, 1916, as amended and supplemented (H. R. 358, 383, 5518, 7343, and 8832).

To amend the act entitled "An act to provide that the United States shall aid the States in the consrtuction of rural post roads," approved July 11, 1916, as amended and supplemented, and authorizing appropriation of $150,000,000 per annum for two years (H. R. 7019).

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To provide for the increase of the Naval Establishment (H. R. 7359).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. WASON: Committee on the Disposition of Useless Executive Papers. A report on the disposition of useless papers in the War Department (Rept. No. 692). Ordered printed.

Mr. McSWAIN: Committee on Military Affairs. H. R. 6492. A bill to authorize the Secretary of War to donate to the city of Charleston, S. C., a certain bronze cannon; without amendment (Rept. No. 695). Referred to the Committee of the Whole House on the state of the Union.

Mr. McSWAIN. Committee on Military Affairs. S. 1665. An act to authorize the board of park commissioners of the city and county of San Francisco to construct a recreation pier at the foot of Van Ness Avenue, San Francisco, Calif.; with amendment (Rept. No. 696). Referred to the Committee of the Whole House on the state of the Union.

Mr. COLTON: Committee on the Public Lands. H. R. 68. A bill to provide for the disposition of asphalt, gilsonite, elaterite, and other like substances on the public domain; with amendment (Rept. No. 697). Referred to the Committee of the Whole House on the state of the Union.

Mr. W. T. FITZGERALD: Committee on Invalid Pensions. H. R. 10159. A bill granting pensions and increase of pensions to widows and former widows of certain soldiers, sailors, and marines of the Civil War, and for other purposes; with amendment (Rept. No. 698). Referred to the Committee of the Whole House on the state of the Union.

Mr. GREEN of Iowa: Committee on Ways and Means. H. R. 10954. A bill to authorize the Secretary of the Treasury to execute agreements of indemnity to the Union Trust Co., Providence, R. I., and the National Bank of Commerce, Philadelphia, Pa.; without amendment (Rept. No. 700). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. WRIGHT: Committee on Military Affairs. H. R. 2525. A bill for the relief of William Henry Judson; without amendment (Rept. No. 690). Referred to the Committee of the Whole House.

Mr. WRIGHT: Committee on Military Affairs. H. R. 6152. A bill to correct the military record of Cromwell L. Barsley; with amendment (Rept. No. 691). Referred to the Committee of the Whole House.

Mrs. KAHN: Committee on War Claims. H. R. 1625. A bill to carry into effect the findings of the Court of Claims in favor of Myron C. Bond, Guy M. Claflin, and Edwin A. Wells; without amendment (Rept. No. 693). Referred to the Committee of the Whole House.

Mr. WRIGHT: Committee on Military Affairs. H. R. 2530. A bill for the relief of William H. Nightingale; without amendment (Rept. No. 694). Referred to the Committee of the Whole House.

Mr. McSWAIN: Committee on Military Affairs. H. R. 9368. A bill to authorize the Secretary of War to exchange with the Pennsylvania Railroad Co. certain tracts of land situate in the city of Philadelphia and State of Pennsylvania; with amendment (Rept. No. 699). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 10815) for the relief of the parents of Garnet Murphy; Committee on War Claims discharged, and referred to the Committee on Claims.

A bill (H. R. 11001) for the relief of Maj. O. S. McCleary, United States Army, retired; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 10813) for the relief of the parents of Donard Murphy; Committee on War Claims discharged, and referred to the Committee on Claims.

A bill (H. R. 10814) for the relief of the parents of Emmett Murphy, deceased; Committee on War Claims discharged, and referred to the Committee on Claims.

A bill (H. R. 10924) granting a pension to Jennie B. Hanks; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HASTINGS: A bill (H. R. 11066) to provide for the furnishing of bonds by national and State banks and trust companies which are members of the Federal reserve system for the protection of depositors; to the Committee on Banking and Currency.

By Mr. HAWLEY: A bill (H. R. 11067) to amend section 5 of chapter 897, Forty-fourth United States Statutes at Large, Part II; to the Committee on the Public Lands.

Also (by request), a bill (H. R. 11068) to amend section 5 of chapter 897, Forty-fourth Statutes at Large, Part II; to the Committee on the Public Lands.

Also, a bill (H. R. 11069) to enlarge the boundaries of the Crater National Forest; to the Committee on the Public Lands.

Also, a bill (H. R. 11070) authorizing the adjustment of the boundaries of the Crater National Forest, in the State of Oregon, and for other purposes; to the Committee on the Public Lands.

By Mr. WURZBACH: A bill (H. R. 11071) providing for the purchase of 1,124 acres of land, more or less, in the vicinity of Camp Bullis, Tex., and authorizing an appropriation therefor; to the Committee on Military Affairs.

By Mr. ZIHLMAN: A bill (H. R. 11072) to transfer the office of the recorder of deeds to the government of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. BROWNING: A bill (H. R. 11073) to amend the World War veterans' act of 1924 to allow compensation to certain dependents; to the Committee on World War Veterans' Legislation.

By Mr. KETCHAM: A bill (H. R. 11074) to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture, and for other purposes; to the Committee on Agriculture.

By Mr. SOMERS of New York: A bill (H. R. 11075) to amend section 5, subsection C, of the act of March 3, 1923, entitled "An act establishing standard grades of naval stores, preventing deception in transactions in naval stores, regulating traffic therein, and for other purposes"; to the Committee on Agriculture.

By Mr. BACON: A bill (H. R. 11076) authorizing the sale of certain lands on Petit Jean Mountain, near Morrilton, Ark., to the Y. M. C. A. of Arkansas; to the Committee on the Public Lands.

By Mr. EVANS of California: A bill (H. R. 11077) for the erection of a public building at the city of Huntington Park, State of California, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. KVALE: A bill (H. R. 11078) to provide for the coinage of medals in commemoration of the achievements of Col. Charles A. Lindbergh, and for other purposes; to the Committee on Coinage, Weights, and Measures.

By Mr. GRIFFIN: A bill (H. R. 11079) relating to certain war veterans and widows in classified civil service of the United States, and for other purposes; to the Committee on the Civil Service.

By Mr. MEAD: A bill (H. R. 11080) to amend section 24 of the immigration act of 1917; to the Committee on Immigration and Naturalization.

By Mr. ASWELL: A bill (H. R. 11081) to amend the act entitled "An act to provide for the protection of forest lands, for the reforestation of denuded areas, for the extension of national forests, and for other purposes, in order to promote the continuous production of timber on lands chiefly suitable therefor," approved June 7, 1924, as amended; to the Committee on Agriculture.

By Mr. ACKERMAN: Joint resolution (H. J. Res. 205) authorizing the Postmaster General to issue a set of stamps relative to the good-will flight of Colonel Lindbergh; to the Committee on the Post Office and Post Roads.

By Mr. DRANE: Joint resolution (H. J. Res. 206) authorizing the Secretary of Agriculture to dispose of real property located in Hernando County, Fla., known as the Brooksville Plant Introduction Garden, no longer required for plant-introduction purposes; to the Committee on Agriculture.

By Mr. BRAND of Georgia: Resolution (H. Res. 115) to remove the statue or portrait monument to Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony, now located in the crypt of the Capitol, to a better position on the second floor of the Capitol; to the Committee on the Library.

MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

By Mr. ARENTZ: Memorial of the Senate of the State of Nevada, Assembly Joint Resolution 2, memorializing the Secretary of Agriculture of the United States to continue in effect his Federal quarantine against importation into the United States of livestock and livestock products from foreign countries where foot-and-mouth disease is known to exist; to the Committee on Agriculture.

Also, memorial of the Senate of the State of Nevada, memorializing Congress relative to Federal aid for highway maintenance, Assembly Joint Resolution 1; to the Committee on Roads.

Also, memorial of Senate of Nevada, Senate Joint Resolution 2, memorializing Congress relative to reimbursement by the Government of the United States for moneys paid by the State for military purposes; to the Committee on the Judiciary.

By Mr. O'CONNELL: Memorial of the Legislature of the State of New York, memorializing Congress relative to Federal aid for highway maintenance; to the Committee on Roads.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BACHMANN: A bill (H. R. 11082) granting an increase of pension to Maria Burley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11083) granting an increase of pension to Lorena Hickman; to the Committee on Invalid Pensions.

By Mr. BUSHONG: A bill (H. R. 11084) granting a pension to Nora K. Endy; to the Committee on Invalid Pensions.

By Mr. CRAIL: A bill (H. R. 11085) for the relief of Laura A. Scott; to the Committee on World War Veterans' Legislation.

Also, a bill (H. R. 11086) for the relief of Richard T. Butler; to the Committee on Military Affairs.

Also, a bill (H. R. 11087) granting a pension to Stella Mae Pierce; to the Committee on Invalid Pensions.

By Mr. CROWTHER: A bill (H. R. 11088) for the relief of John Dzikowicz; to the Committee on Claims.

By Mr. DEMPSEY: A bill (H. R. 11089) for the relief of the Lockport Felt Co., of Newfane, N. Y.; to the Committee on Ways and Means.

By Mr. DREWRY: A bill (H. R. 11090) for the relief of the Harrison Construction Co.; to the Committee on War Claims.

By Mr. DRIVER: A bill (H. R. 11091) granting an increase of pension to Nancy Ross; to the Committee on Invalid Pensions.

By Mr. ENGLAND: A bill (H. R. 11092) for the relief of Leon Lawrence Hamb; to the Committee on Naval Affairs.

Also, a bill (H. R. 11093) for the relief of James F. Wootton; to the Committee on Military Affairs.

By Mr. ENGLEBRIGHT: A bill (H. R. 11094) to correct the military record of William Estes; to the Committee on Military Affairs.

By Mr. ROY G. FITZGERALD: A bill (H. R. 11095) granting an increase of pension to Minerva J. Buck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11096) granting a pension to William C. Apgar; to the Committee on Pensions.

Also, a bill (H. R. 11097) granting a pension to Julia Little; to the Committee on Pensions.

By Mr. HUGHES: A bill (H. R. 11098) granting an increase of pension to Margaret E. Newcomb; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11099) granting an increase of pension to Belle Ward; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11100) granting a pension to John D. Keister; to the Committee on Invalid Pensions.

By Mr. WILLIAM E. HULL: A bill (H. R. 11101) granting an increase of pension to Sophia J. Hyler; to the Committee on Invalid Pensions.

By Mr. HALL of Indiana: A bill (H. R. 11102) granting a pension to Anna Baker; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Illinois: A bill (H. R. 11103) for the relief of Ray Wilson; to the Committee on Claims.

By Mr. JOHNSON of Indiana: A bill (H. R. 11104) granting a pension to Alonzo V. Kennedy; to the Committee on Pensions.

By Mrs. KAHN: A bill (H. R. 11105) to provide for appointing Robert J. Burton, a former field clerk, Quartermaster Corps, a warrant officer, United States Army; to the Committee on Military Affairs.

By Mr. LINDSAY: A bill (H. R. 11106) for the relief of Lieut. Francis H. A. McKeon; to the Committee on Claims.

By Mr. MAPES: A bill (H. R. 11107) for the relief of William H. Estabrook; to the Committee on Military Affairs.

By Mr. MAJOR of Missouri: A bill (H. R. 11108) for the relief of De Witt & Shobe; to the Committee on Claims.

Also, a bill (H. R. 11109) granting an increase of pension to Mollie F. Shockley; to the Committee on Pensions.

By Mr. MOONEY: A bill (H. R. 11110) granting an increase of pension to Sigmund Shlesinger; to the Committee on Pensions.

By Mr. MOORE of Kentucky: A bill (H. R. 11111) granting an increase of pension to Martha J. Haire; to the Committee on Invalid Pensions.

By Mr. MORIN: A bill (H. R. 11112) granting an increase of pension to Mary F. Johnston; to the Committee on Invalid Pensions.

By Mr. NIEDRINGHAUS: A bill (H. R. 11113) for the relief of Gertrude Becherer; to the Committee on Claims.

By Mr. OLDFIELD: A bill (H. R. 11114) granting a pension to Edgar Wilkerson; to the Committee on Pensions.

By Mr. PRALL: A bill (H. R. 11115) for the relief of Mary F. Tranter, administratrix of the estate of George C. Tranter, deceased; to the Committee on Claims.

By Mr. ROBINSON of Iowa: A bill (H. R. 11116) for the relief of the legal representatives of Henry Ohlekopf, deceased; to the Committee on Claims.

By Mr. RATHBONE: A bill (H. R. 11117) for the relief of Ida L. Funston; to the Committee on Claims.

By Mr. SNELL: A bill (H. R. 11118) granting an increase of pension to Mary Constine; to the Committee on Invalid Pensions.

By Mr. SPROUL of Illinois: A bill (H. R. 11119) for the relief of Joseph H. Patenaude; to the Committee on Naval Affairs.

By Mr. STROTHER: A bill (H. R. 11120) granting an increase of pension to Josephine Roy; to the Committee on Pensions.

Also, a bill (H. R. 11121) granting an increase of pension to Polly Crum; to the Committee on Invalid Pensions.

By Mr. SUMMERS of Washington: A bill (H. R. 11122) granting an increase of pension to Charlotte A. Smith; to the Committee on Invalid Pensions.

By Mr. THURSTON: A bill (H. R. 11123) granting a pension to Ida Beadle; to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 11124) granting an increase of pension to Hannah Bailey; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11125) granting an increase of pension to Philena Bagley; to the Committee on Invalid Pensions.

By Mr. WELLER: A bill (H. R. 11126) granting an increase of pension to Kate A. Mann; to the Committee on Invalid Pensions.

By Mr. WINGO: A bill (H. R. 11127) granting a pension to Sarah E. Little; to the Committee on Invalid Pensions.

By Mr. WURZBACH: A bill (H. R. 11128) granting a pension to Helene Pfeiffer; to the Committee on Pensions.

Also, a bill (H. R. 11129) granting a pension to Gottlieb Schwope; to the Committee on Pensions.

Also, a bill (H. R 11130) granting a pension to Gottlieb Stephen; to the Committee on Pensions.

Also, a bill (H. R. 11131) granting a pension to William P. Stendebach; to the Committee on Pensions.

Also, a bill (H. R. 11132) granting a pension to Anton Phillip; to the Committee on Pensions.

PETITIONS, ETC.

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

3995. Petition of city council of the city of Medford, Oreg., transmitting a draft of a bill "Authorizing the adjustment of the boundaries of the Crater National Forest, in the State of Oregon, and for other purposes"; to the Committee on the Public Lands.

3996. Petition of city council of the city of Medford, Oreg., transmitting a draft of a bill "To enlarge the boundaries of the Crater National Forest"; to the Committee on the Public Lands.

3997. By Mr. AYRES: Petition from citizens of Wichita, Kans., for legislation in behalf of Civil War veterans and their widows, and petition from citizens of Colwich, Kans., for legislation in behalf of Civil War veterans and their widows; to the Committee on Invalid Pensions.

3998. By Mr. BACHMANN: Petition of Mrs. H. C. Newberger and 35 other citizens of Wheeling, Ohio County, W. Va., protesting against the Lankford compulsory Sunday observance bill (H. R. 78); to the Committee on the District of Columbia.

3999. Also, petition of E. F. Phillips Lumber Co. and West Virginia Title & Trust Co., of New Martinsville, W. Va., protesting against the passage of the Oddie bill, which proposes that the Government stop printing stamped envelopes for the general public; to the Committee on the Post Office and Post Roads.

4000. By Mr. BARBOUR: Petition of residents of the seventh congressional district of California, protesting against the Lankford Sunday bill (H. R. 78); to the Committee on the District of Columbia.

4001. Also, resolutions adopted by Machinists' Local, No. 653, and Hod Carriers, Building and Common Laborers Local, No. 135, of Fresno, Calif., urging support of the Box bill placing immigration from Mexico under the quota; to the Committee on Immigration and Naturalization.

4002. By Mr. CELLER: Petition of Engraved Steel Plate Finishers Association, Washington, D. C.; to the Committee on the Civil Service.

4003. Also, petition of the Steuben Society of America, Carl Shurz Unit, No. 28, St. Louis, Mo.; to the Committee on Immigration and Naturalization.

4004. Also, petition of Dixie Post, No. 64, Veterans of Foreign Wars of the United States, National Sanatorium, Tenn.; to the Committee on World War Veterans' Legislation.

4005. By Mr. CHALMERS: Petition protesting against a competitive Navy, signed by residents of Sylvania, Ohio; to the Committee on Naval Affairs.

4006. By Mr. CRAIL: Petition of approximately seven citizens of Los Angeles County, Calif., protesting against the passage of the Brookhart bill relative to the motion-picture industry (S. 1667); to the Committee on Interstate and Foreign Commerce.

4007. Also, petition of approximately 10 citizens of Los Angeles County, Calif., against the naval armament bill; to the Committee on Naval Affairs.

4008. Also, petition of approximately 21 citizens of Los Angeles County, Calif., protesting against the passage of the Brookhart bill (S. 1667); to the Committee on Interstate and Foreign Commerce.

4009. Also, petition of approximately 22 citizens of Los Angeles County, Calif., against the passage of House bill 78 or any other similar legislation; to the Committee on the District of Columbia.

4010. By Mr. CRAMTON: Petition signed by Harry J. Lefingey and 15 other residents of New Haven, Mich., protesting against the large Navy program now under consideration; to the Committee on Naval Affairs.

4011. By Mr. CROWTHER: Petition of residents of Gloversville, N. Y., advocating increase of pensions for Civil War veterans and their widows; to the Committee on Invalid Pensions.

4012. By Mr. CULLEN: Letter from Maritime Exchange, 78 Broad Street, New York City, in re House bill 9481; to the Committee on Appropriations.

4013. Also, letter from the Steuben Society of America in regard to the immigration law; to the Committee on Immigration and Naturalization.

4014. By Mr. DRANE: Petition of citizens of the first congressional district of Florida, against compulsory Sunday observance legislation (H. R. 78); to the Committee on the District of Columbia.

4015. By Mr. DREWRY: Petition of citizens of Amelia County, Va., requesting a vote on a Civil War pension bill in order that relief may be acocrded to needy and suffering veterans and widows; to the Committee on Invalid Pensions.

4016. By Mr. EATON: Petition of Peter J. Westervelt and 24 other residents of Blawenburg, N. J., upholding the national origins clause of the immigration act of 1924; to the Committee on Immigration and Naturalization.

4017. By Mr. ESTEP: Petition protesting against the building program of the naval bill by Pennsylvania Council of Churches, Rev. William L. Mudge, executive secretary; to the Committee on Naval Affairs.

4018. By Mr. GARNER of Texas: Memorial of chamber of commerce, Mercedes, Tex., in opposition to restriction of Mexican immigration; to the Committee on Immigration and Naturalization.

4019. By Mr. HARDY: Petition of 20 residents of Colorado Springs, Colo., urging the enactment of legislation for the relief of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

4020. By Mr. JOHNSON of Texas: Petition of citizens residing in Navarro County, Tex., opposing repeal or modification of immigration law of 1924; to the Committee on Immigration and Naturalization.

4021. By Mrs. KAHN: Petition of numerous citizens of California, protesting against the enactment of compulsory Sunday observance legislation; to the Committee on the District of Columbia.

4022. By Mr. KEARNS: Petition of citizens of Adams County, Ohio, urging a vote on the Civil War pension bill; to the Committee on Invalid Pensions.

4023. By Mr. KVALE: Petition of American Legion Auxiliary of Willmar, Minn., urging enactment of the Tyson-Fitzgerald bill and the universal draft bill; to the Committee on World War Veterans' Legislation.

4024. Also, petition of George F. Holden Post No. 253, American Legion, Lowry, Minn., and its auxiliary, urging enactment

of the Tyson-Fitzgerald bill and the universal draft bill; to the Committee on World War Veterans' Legislation.

4025. Also, petition of county board of commissioners of Mahnomen County, Minn., favoring a per capita payment for the Indians of the White Earth Reservation; to the Committee on Indian Affairs.

4026. Also, petition of Women's International League for Peace and Freedom, Minnesota section, protesting against the big Navy program; to the Committee on Naval Affairs.

4027. Also, petition of Minnesota District of International Federation of Cosmopolitan Clubs, favoring construction of the St. Lawrence waterway and the upper Mississippi River development project; to the Committee on Rivers and Harbors.

4028. Also, petition of the Lee-Osbourn Post, No. 59, of Montevideo, Minn., urging passage of the legislative program indorsed at the national convention in Paris; to the Committee on World War Veterans' Legislation.

4029. Also, petition of members of the Hamlin Local, No. 103, of the Farmers' Educational and Cooperative Union, urging passage of the McNary-Haugen bill; to the Committee on Agriculture.

4030. Also, petition of the Eighth District (Minnesota) Congress of Parents and Teachers, favoring the Curtis-Reed education bill; to the Committee on Education.

4031. Also, petition of Montevideo A. S. of E. Cooperative Elevator & Trading Co., indorsing Senate Joint Resolution 59; to the Committee on Agriculture.

4032. Also, petition of Holloway Farmers Cooperative Elevator Co., indorsing Senate Joint Resolution 59; to the Committee on Agriculture.

4033. By Mr. MAPES: Petition of 16 residents of Grand Rapids, Mich., against the passage of House bill 78, or any other compulsory Sunday observance legislation; to the Committee on the District of Columbia.

4034. By Mr. MEAD: Petition of residents of Buffalo, N. Y., in opposition to Senate bill 1667; to the Committee on Interstate and Foreign Commerce.

4035. By Mr. MOONEY: Petition of mission study class, Bethany English Lutheran Church, Cleveland, protesting the large naval building program; to the Committee on Naval Affairs.

4036. By Mr. MORROW: Petition of chamber of commerce, Grant County, Silver City, N. Mex., opposing Box bill, restricting Mexican immigration; to the Committee on Immigration and Naturalization.

4037. By Mr. NELSON of Missouri: Petition signed by Dr. Lashley M. Gray and other citizens of Prairie Home, Mo., in behalf of Civil War veterans and their dependents; to the Committee on Invalid Pensions.

4038. By Mr. O'CONNELL: Petition of the R. H. Comey Brooklyn Co., Brooklyn, N. Y., opposing the passage of the LaGuardia bill (H. R. 7759), amending the Judicial Code; to the Committee on the Judiciary.

4039. Also, petition of Harmonia Council, No. 99, Sons and Daughters of Liberty, favoring the passage of the Aswell bill (H. R. 5473); to the Committee on Immigration and Naturalization.

4040. Also, petition of the National Association of Book Publishers, New York City, favoring the passage of House bill 8304 and Senate bill 2040, relative to postal rates; to the Committee on the Post Office and Post Roads.

4041. Also, petition of 20 citizens of the State of New York, employed in the War Department, favoring the passage of the Federal employees retirement bill and the Welch bill (H. R. 6518); to the Committee on the Civil Service.

4042. Also, petition of the United States Cedar Industry Tariff Committee, demanding an adequate cedar tariff to remove existing discriminations and handicaps against American labor, business, and industry, and to properly and fairly protect American labor, business, and industry; to the Committee on Ways and Means.

4043. By Mr. SPEARING: Petition of numerous citizens, protesting against the passage of the Brookhart bill affecting the distribution of moving-picture films; to the Committee on Interstate and Foreign Commerce.

4044. By Mr. ROBINSON of Iowa: Petition urging immediate passage of the Civil War widow's pension bill, signed by about 45 adult citizens of Dundee, Delaware County, Iowa; to the Committee on Invalid Pensions.

4045. By Mr. SWICK: Petition of Mrs. H. A. Wilder and 39 other residents of New Castle, Lawrence County, Pa., protesting against the passage of the Lankford bill, or other compulsory Sunday observance measure for the District of Columbia; to the Committee on the District of Columbia.

4046. By Mr. SWING: Petition of citizens of Inyo County, Calif., protesting against compulsory Sunday observance laws; to the Committee on the District of Columbia.

4047. Also, petition of citizens of Arlington, Calif., protesting against compulsory Sunday observance laws; to the Committee on the District of Columbia.

4048. Also, petition of citizens of Fullerton, Calif., and vicinity, protesting against compulsory Sunday observance laws; to the Committee on the District of Columbia.

4049. Also, petition of citizens of Beaumont, Calif., protesting against compulsory Sunday observance laws; to the Committee on the District of Columbia.

4050. Also, petition of citizens of Little Lake, Calif., protesting against compulsory Sunday observance laws; to the Committee on the District of Columbia.

4051. Also, petition of citizens of Brawley, Calif., and other communities, protesting against compulsory Sunday observance laws; to the Committee on the District of Columbia.

4052. By Mr. THURSTON: Petition of 56 citizens of Page County, Iowa, protesting against the compulsory Sunday observance bill (H. R. 78); to the Committee on the District of Columbia.

4053. By Mr. TILLMAN: Petition of H. G. Wallis and sundry other citizens of Arkansas, asking for speedy passage of bill to increase pensions for Union veterans and widows of same; to the Committee on Invalid Pensions.

4054. By Mr. TILSON: Petition of N. I. Wemstein and other residents of New Haven, Conn., protesting against the passage of House bill 78; to the Committee on the District of Columbia.

4055. By Mr. VINSON of Kentucky: Petition of the residents of Ashland, Ky., against compulsory Sunday observance; to the Committee on the District of Columbia.

4056. Also, petition of the residents of the counties of Menefee, Boyd, and Carter, Ky., to increase the pension of all Civil War veterans and their widows; to the Committee on Invalid Pensions.

4057. By Mr. WHITE of Kansas: Petition of H. Coover and others, of Bickerdyke Home for Civil War Veterans, and their wives and widows, at Ellsworth, Kans.; to the Committee on Invalid Pensions.

4058. By Mr. WINTER: Petition against compulsory Sunday observance, by citizens of Weston County, Wyo., and George S. and Mary E. Stanton, Buckhorn, Wyo.; to the Committee on the District of Columbia.

4059. By Mr. WYANT: Petition of 2,175 members of churches in Mount Pleasant, Pa., and vicinity, favoring passage of Lankford Sunday rest bill (H. R. 78); to the Committee on the District of Columbia.

4060. Also, petition of Soroptimist Club, of the District of Columbia, favoring passage of Senate bill 1907 and House bill 6664; to the Committee on the Civil Service.

4061. Also, petition of C. L. Goodwin, of Greensburg, Pa., favoring Senate Joint Resolution 23 and House Joint Resolution 62; to the Committee on Rules.

SENATE

FRIDAY, *February 17, 1928*

(Legislative day of Thursday, February 16, 1928)

The Senate reassembled at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were thereupon signed by the Vice President:

S. 2348. An act granting the consent of Congress to the Norfolk & Western Railway Co. and Knox Creek Railway Co. to construct, maintain, and operate two bridges across the Tug Fork of Big Sandy River near Devon, Mingo County, W. Va.; and

H. R. 9660. An act authorizing the city of Louisville, Ky., to construct, maintain, and operate a toll bridge across the Ohio River at or near said city.

SUPPLEMENTAL ESTIMATE OF APPROPRIATION—MESS HALL AT SOLDIERS' HOME, SANTA MONICA, CALIF. (S. DOC. NO. 57)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation, fiscal year 1929, for the National Home for Disabled Volunteer Soldiers, for construc-