By Mr. GARBER: A bill (H. R. 16145) granting a pension to Martha Jane Misner; to the Committee on Invalid Pensions.

By Mr. GARNER of Texas: A bill (H. R. 16146) for the relief of J. N. Lewis; to the Committee on Claims.

By Mr. HALE: A bill (H. R. 16147) granting an increase of pension to Frank G. Nelson; to the Committee on Claims.

By Mr. HASTINGS: A bill (H. R. 16148) granting a pension to Mary R. Proud; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16149) granting a pension to Annie R. C. Owen; to the Committee on Pensions.

By Mr. HUDSPETH: A bill (H. R. 16150) granting a pension to Joseph Farnandis; to the Committee on Pensions.

By Mr. KEARNS: A bill (H. R. 16151) granting an increase of pension to Belle Adams; to the Committee on Invalid Pensions.

By Mr. KEMP: A bill (H. R. 16152) for the relief of Joseph T. Byrne; to the Committee on Claims.

By Mr. LAMPERT: A bill (H. R. 16153) for the relief of William J. Sachse; to the Committee on the Civil Service.

By Mr. LOZIER: A bill (H. R. 16154) granting a pension to Mary E. Beckner; to the Committee on Invalid Pensions.

By Mr. SANDERS of Texas: A bill (H. R. 16155) for the relief of the Farmers & Merchants National Bank of Gilmer, Tex.; to the Committee on Claims.

By Mr. STEELE: A bill (H. R. 16156) granting a pension to James Thompson; to the Committee on Pensions.

By Mr. STRONG of Kansas: A bill (H. R. 16157) granting an increase of pension to Mary A. McCartney; to the Committee on Invalid Pensions.

By Mr. SUMMERS of Washington: A bill (H. R. 16158) granting a pension to Emma W. Rice; to the Committee on Pensions.

By Mr. SWING: A bill (H. R. 16159) granting an increase of pension to David B. Todd; to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 16160) granting an increase of pension to Martha Frances Brown; to the Committee on Invalid Pensions.

By Mr. WHITE of Maine: A bill (H. R. 16161) granting a pension to Julia L. Libby; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

8199. By Mr. BRIGGS: Petition of J. S. Bryce, 3808 Avenue J, Galveston, Tex., and others, opposing reduction of power of all broadcasting stations now using more than 10,000 watts; to the Committee on the Merchant Marine and Fisheries.

8200. By Mr. CULLEN: Petition of the West Point Society of New York, approving and indorsing the bills introduced in the Senate by Senator BLACK (S. 3089), House by Congressman WAINWRIGHT (H. R. 13509), as amended by Congressman McSWAIN; to the Committee on Military Affairs.

8201. By Mr. FITZPATRICK: Petition signed by citizens of the city of Mount Vernon, N. Y., favoring the passage of House Resolution 14676; to the Committee on Pensions.

8202. By Mr. KELLY: Petition of National Beauty and Barbers' Supply Association, asking for enactment of House bill 11, the fair trade bill; to the Committee on Interstate and Foreign Commerce.

8203. By Mr. McCORMACK: Petition of New England Manufacturing Confectioners Association, Olin M. Jacobs, secretary, 40 Court Street, Boston, Mass., recommending a reduction in the tariff on edible gelatin from the present rates of 20 per cent ad valorem and 3½ cents a pound; to the Committee on Ways and Means.

8204. By Mr. MEAD: Petition of Dixie Post, No. 64, Veterans of Foreign Wars of the United States; to the Committee on Pensions.

8205. Also, petition of board of directors of the National Lumber Manufacturers Association; to the Committee on Agriculture.

8206. Also, petition of National Beauty and Barbers Supply Dealers' Association; to the Committee on Interstate and Foreign Commerce.

8207. Also, petition of American Farm Bureau Federation; to Committee on Agriculture.

8208. By Mr. O'CONNELL: Petition of the National Beauty and Barbers Supply Dealers Association of New York, favoring the passage of the Capper-Kelly bill (S. 1418 and H. R. 11), known as the fair trade bill; to the Committee on Interstate and Foreign Commerce.

8209. Also, petition of the Tennessee Association Drainage Districts, Obion, Tenn., favoring the passage of Senate bill 4689, for relief of drainage districts; to the Committee on Irrigation and Reclamation.

SENATE

FRIDAY, *January 11, 1929*

(Legislative day of Monday, January 7, 1929)

The Senate met in open executive session at 12 o'clock meridian, on the expiration of the recess.

The PRESIDING OFFICER (Mr. McNARY in the chair). The Senate, as in legislative session, will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7729) to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 7729. An act to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases;

H. R. 13645. An act to establish two United States narcotic farms for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes;

H. R. 14473. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois;

H. R. 14474. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois; and

H. R. 15333. An act granting the consent of Congress to the South Park commissioners and the commissioners of Lincoln Park, separately or jointly, to construct, maintain, and operate a free highway bridge across that portion of Lake Michigan lying opposite the entrance to Chicago River, Ill.; and granting the consent of Congress to the commissioners of Lincoln Park to construct, maintain, and operate a free highway bridge across the Michigan Canal, otherwise known as the Ogden Slip, in the city of Chicago, Ill.

CALL OF THE ROLL

Mr. REED of Missouri. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

Ashurst	Frazier	McNary	Shortridge
Barkley	George	Mayfield	Simmons
Bingham	Gerry	Metcalf	Smoot
Black	Glass	Moses	Steck
Blaine	Glenn	Neely	Steiwer
Blease	Goff	Norbeck	Stephens
Borah	Greene	Norris	Swanson
Bratton	Harris	Nye	Thomas, Idaho
Brookhart	Harrison	Oddie	Thomas, Okla.
Broussard	Hastings	Overman	Trammell
Bruce	Hawes	Phipps	Tydings
Burton	Hayden	Pine	Tyson
Capper	Heflin	Pittman	Vandenberg
Caraway	Johnson	Ransdell	Wagner
Copeland	Jones	Reed, Mo.	Walsh, Mass.
Couzens	Kendrick	Reed, Pa.	Warren
Curtis	Keyes	Robinson, Ark.	Waterman
Deneen	King	Robinson, Ind.	Watson
Dill	La Follette	Sackett	Wheeler
Edge	McKellar	Schall	
Fess	McLean	Sheppard	
Fletcher	McMaster	Shipstead	

Mr. NORRIS. I desire to announce that my colleague [Mr. HOWELL] is ill and detained from the Senate for that reason. I ask that this announcement may stand for the day.

Mr. CURTIS. I wish to announce that the senior Senator from Maine [Mr. HALE] is absent on account of illness. I will let this announcement stand for the day.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Mr. WHEELER. My colleague the senior Senator from Montana [Mr. WALSH] is detained from the Senate by illness. I ask that this announcement may stand for the day.

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

PETITIONS AND MEMORIALS

As in legislative session,

Mr. FLETCHER presented the petition of Rabbi Martin Friedmann, of Temple Beth-el, and sundry other citizens of Pensacola, Fla., praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which was ordered to lie on the table.

Mr. OVERMAN presented a petition of post-office clerks and letter carriers of High Point, N. C., praying for the passage of legislation in the interest of postal employees, which was referred to the Committee on Post Offices and Post Roads.

Mr. JONES presented petitions of sundry citizens of Spokane, Tacoma, Chehalis, Longview, Ridgefield, Lynden, and Kelso, all in the State of Washington, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were ordered to lie on the table.

Mr. SIMMONS presented a petition of post-office clerks and letter carriers of High Point, N. C., praying for the passage of legislation in the interest of postal employees, which was referred to the Committee on Post Offices and Post Roads.

Mr. COPELAND presented petitions of members of the Peekskill Choral Club, of Peekskill, and sundry citizens of New York City and Brooklyn, in the State of New York, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were ordered to lie on the table.

FIRST DEFICIENCY APPROPRIATIONS

Mr. WARREN. As in legislative session, from the Committee on Appropriations I report back favorably with amendments the urgent deficiency bill, being the bill (H. R. 15848) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1929, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal year ending June 30, 1929, and for other purposes, and I submit a report (No. 1417) thereon.

I give notice that I shall undertake to secure consideration for the bill on next Monday morning immediately following the routine morning business.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. McKELLAR. Mr. President, I desire to call attention to the fact that on the desk of each Senator will be found a copy of the hearings on the first deficiency appropriation bill. The hearings are of such vast importance to the Senate that I hope every Senator will read them. Every Senator will find a copy on his desk.

REPORTS OF COMMITTEES

As in legislative session,

Mr. BLAINE, from the Committee on the Judiciary, to which was referred the bill (S. 5223) to amend subsection 3 of section 3220 of the Revised Statutes, as amended, relating to claims for refunds of taxes, reported it with amendments, and submitted a report (No. 1418) thereon.

Mr. NORBECK, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 10157) making an additional grant of lands for the support and maintenance of the Agricultural College and School of Mines for the Territory of Alaska, and for other purposes (Rept. No. 1419); and

A bill (H. R. 13744) to provide for the acquisition by Parker I-See-O Post, No. 12, All American Indian Legion, Lawton, Okla., of the east half northeast quarter northeast quarter northwest quarter of section 20, township 2 north, range 11 west, Indian meridian, in Comanche County, Okla. (Rept. No. 1420).

Mr. NYE, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 4979) to authorize the city of Niobrara, Nebr., to transfer Niobrara Island to the State of Nebraska, reported it with an amendment and submitted a report (No. 1421) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 5110) validating certain applications for and entries of public lands, and for other purposes (Rept. No. 1422);

A bill (H. R. 10550) to provide for the acquisition by Meyer Shield Post, No. 92, American Legion, Alva, Okla., of lot 19, block 41, the original town site of Alva, Okla. (Rept. No. 1423);

A bill (H. R. 11719) to revise the boundaries of the Lassen Volcanic National Park, in the State of California, and for other purposes (Rept. No. 1424); and

A bill (H. R. 15088) to provide for the extension of the boundary limits of the Lafayette National Park in the State of Maine and for change of name of said park to the Acadia National Park (Rept. No. 1425).

REPORTS OF NOMINATIONS

Mr. JONES. As in closed executive session, I ask leave to report certain nominations from the Committee on Commerce for the calendar.

The PRESIDING OFFICER. The nominations will be received and placed on the Executive Calendar.

BILLS AND JOINT RESOLUTION INTRODUCED

As in legislative session,

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

By Mr. TYSON:

A bill (S. 5301) granting the consent of Congress to the Highway Department of the State of Tennessee to construct a bridge across the French Broad River on Tennessee Highway No. 9, in Cocke County, Tenn.; to the Committee on Commerce.

By Mr. NORBECK:

A bill (S. 5302) to amend the second paragraph of section 4 of the Federal farm loan act, as amended; to the Committee on Banking and Currency.

By Mr. FRAZIER (by request):

A bill (S. 5303) for the relief of the Osage Tribe of Indians, and for other purposes; to the Committee on Indian Affairs.

By Mr. ODDIE:

A bill (S. 5304) granting a pension to Peter Huntsman; to the Committee on Pensions.

By Mr. PHIPPS:

A bill (S. 5305) granting a pension to Anna M. Barnes; and

A bill (S. 5306) granting a pension to Mary H. Rodgers; to the Committee on Pensions.

By Mr. HAYDEN:

A bill (S. 5307) equalizing annual leave of employees of the Department of Agriculture stationed outside the continental limits of the United States; to the Committee on Agriculture and Forestry.

By Mr. ROBINSON of Arkansas:

A bill (S. 5308) granting a pension to Alta K. Conley; to the Committee on Pensions.

By Mr. NORRIS (for Mr. HOWELL):

A bill (S. 5309) authorizing the appointment and retirement as a warrant officer, United States Army, of Charles L. Gyger; to the Committee on Military Affairs.

By Mr. JOHNSON:

A bill (S. 5310) granting a pension to Edward S. Grigsby (with accompanying papers); to the Committee on Pensions.

A bill (S. 5311) for the relief of Harry R. Neilson (with accompanying papers); to the Committee on Naval Affairs.

By Mr. WATSON:

A bill (S. 5312) granting a pension to Lottie Lou Hart (with accompanying papers); to the Committee on Pensions.

By Mr. HARRIS:

A bill (S. 5313) for the relief of Lamar Jamerson; to the Committee on Military Affairs.

By Mr. COPELAND:

A bill (S. 5314) for the relief of Jetta G. Moseley; to the Committee on Claims.

A bill (S. 5315) granting a pension to Mary E. Cowell; to the Committee on Pensions.

By Mr. SCHALL:

A bill (S. 5316) providing for a per capita payment of $100 to each enrolled member of the Chippewa Tribe of Minnesota from the funds standing to their credit in the Treasury of the United States; to the Committee on Indian Affairs.

By Mr. REED of Missouri:

A bill (S. 5317) granting an increase of pension to Henry E. D. Patee (with accompanying papers); to the Committee on Pensions.

A bill (S. 5318) to declare a portion of the battle field of Westport, in the State of Missouri, a national military park, and to authorize the Secretary of War to acquire title to same on behalf of the United States; to the Committee on Military Affairs.

Mr. McKELLAR. Mr. President, I desire to reintroduce Senate bill 5223 with certain amendments so as to have a clean copy of the bill.

The PRESIDING OFFICER. The bill will be received.

By Mr. McKELLAR:

A bill (S. 5319) to amend subsection 3 of section 3220 of the Revised Statutes, as amended, relating to claims for refunds of taxes; to the Committee on the Judiciary.

By Mr. McNARY:

A bill (S. 5320) granting a pension to Jessie L. Kilgore; to the Committee on Pensions.

A bill (S. 5321) for the relief of Lester L. Wilson; to the Committee on Claims.

A bill (S. 5322) for the relief of Sargent Brown; to the Committee on Indian Affairs.

By Mr. REED of Pennsylvania:

A bill (S. 5323) granting an increase of pension to Sallie H. Dethample; and

A bill (S. 5324) granting an increase of pension to Nancy Jane Stewart; to the Committee on Pensions.

By Mr. SHEPPARD:

A joint resolution (S. J. Res. 191) increasing the authorization for appropriations for the International Water Commission, United States and Mexico; to the Committee on Foreign Relations.

MONOPOLY IN MANUFACTURE OF RADIO APPARATUS

Mr. DILL submitted the following concurrent resolution (S. Con. Res. 29), which was referred to the Committee on Interstate Commerce:

Whereas the House of Representatives of the Congress of the United States on March 3, 1923, unanimously passed a resolution requesting the Federal Trade Commission to investigate and to report the facts concerning attempts to monopolize the manufacture of radio apparatus as well as radio communication to "aid the House of Representatives in determining whether * * * the antitrust statutes of the United States have been or now are being violated by any person, company, or corporation subject to the jurisdiction of the United States"; and

Whereas pursuant to said resolution, the Federal Trade Commission did make such investigation and transmitted to the Speaker of the House of Representatives a report of 347 pages embracing various agreements made by and between the General Electric Co., American Telephone & Telegraph Co., Western Electric Co. (Inc.), Westinghouse Electric & Manufacturing Co., International Radio Telegraph Co., United Fruit Co., Wireless Specialty Apparatus Co., and Radio Corporation of America, contracting to pool the radio patents of these companies, allocating to each other their respective fields of manufacture, sale and use of radio apparatus and facilities, and to restrain their use so as to give to this group what has been alleged to be a monopoly of radio manufacture and communications in the United States as well as between the United States and foreign countries; and reciting various acts and practices of said companies pursuant to said agreements; and

Whereas said Federal Trade Commission, after submitting said report and upon its own motion, did, on January 28, 1924, issue a formal complaint charging that said General Electric Co., American Telephone & Telegraph Co., Western Electric Co. (Inc.), Westinghouse Electric & Manufacturing Co., International Radio Telegraph Co., United Fruit Co., Wireless Specialty Apparatus Co., and Radio Corporation of America, "have combined and conspired for the purpose and with the effect of restraining competition and creating a monopoly in the manufacture, purchase, and sale in interstate commerce of radio devices and apparatus and other electrical devices and apparatus, and in domestic and transoceanic radio communications and broadcasting"; and

Whereas said Federal Trade Commission, at great expense, has spent five years in hearing evidence to support these charges and has accumulated 10,000 pages of sworn testimony and exhibits; and

Whereas said Federal Trade Commission following a recent decision of the Supreme Court of the United States that said commission has no jurisdiction over violations of the antitrust laws and that the remedy for such violations must be administered by the courts in appropriate proceedings therein instituted has dismissed said complaint; and

Whereas if the charges contained in said complaint are true, it is the duty of the Department of Justice to prosecute such violators and to obtain from the United States courts such injunctions or other orders as may be necessary to dissolve such alleged Radio Trust, and to obtain such other relief as may be proper to assure free competition in radio manufacture, sale, and communications: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That the Federal Trade Commission be, and it is hereby, requested to immediately transmit to the Attorney General of the United States all such testimony, exhibits, and other information obtained by it in connection with its investigation of the complaint aforesaid and such other pertinent information as it may have in connection with this subject; and be it further

Resolved, That the Attorney General of the United States be, and he is hereby, requested to have immediate consideration given to the evidence so presented and to have the Department of Justice take such action on the charges of violations of the antitrust laws of the United States as such evidence and information may warrant and to report to Congress as soon as convenient his decision and action in the premises.

RESPONSIBILITY FOR THE WORLD WAR

Mr. SHIPSTEAD submitted the following concurrent resolution (S. Con. Res. 30), which was referred to the Committee on Foreign Relations:

Whereas article 231 of the treaty of Versailles declares as follows: "The allied and associated powers affirm, and Germany acknowledges, that Germany and its allies are guilty of having caused all losses and damages which the allied and associated governments and their nations suffered in consequence of the war, which was forced upon them by Germany and its allies; and

"Whereas said article was founded on a judicial opinion of the Entente Commission of Fifteen, appointed by the victors on January 25, 1919, 'to determine the responsibility of the war and punishment therefor'; and

"Whereas the American Government was a party to said judicial opinion, which was approved and signed by its two delegates on the said commission, namely, Robert Lansing, chairman of the commission, and James Brown Scott; and

"Whereas such a judgment to have had any legal or moral authority should have been pronounced by an impartial tribunal after careful study of the evidence and hearing both sides; and

"Whereas since the formation of the treaty of Versailles abundance of testimony has appeared from the archives of the allied as well as the Central Powers, and from other sources, showing that the said article 231 was based on hysteria, hypocrisy, and falsifications 'forged in the fires of war'; and

"Whereas distinguished historians and statesmen of the United States, Great Britain, Canada, Italy, Russia, France, and Serbia, as well as Germany and Austria, have declared that the evidence now available is sufficient to warrant a just and reasonable attitude on the part of the victors and a reconsideration of the judgment, which they allege was manifestly unjust, violative of judicial principles, and legal procedure, and a grave obstacle to international understanding; and

"Whereas the establishment of the facts and the truth as to the origin of war is vital to a reconciliation of the peoples of Europe and to their moral disarmament: Therefore be it

"*Resolved by the Senate (the House of Representatives concurring)*, That the Committee on Foreign Relations of the Senate and the Committee of Foreign Affairs of the House of Representatives are hereby authorized and directed (1) to hold an inquiry, either separately or jointly, for the purpose of determining whether in view of the new evidence and other official material the time is appropriate for the American Government, inspired by the sense of justice and fair play, to recommend to the allied powers either to amend article 231 of the treaty of Versailles without further delay or to announce severally their intention to disregard it or to propose to the allied powers that the question of the responsibility for the World War be submitted to a commission of neutrals, and (2) to report to the Congress the result of such inquiry on or before March 4, 1929."

PHONY DISEASE OF THE PEACH (S. DOC. NO. 200)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, supplemental estimates of appropriations, fiscal year 1930, amounting to $100,000, to enable the Secretary of Agriculture to eradicate or control the so-called phony disease of the peach, which was referred to the Committee on Appropriations and ordered to be printed.

MRS. LOIS I. MARSHALL

Mr. STECK. I ask unanimous consent, as in legislative session, to make a favorable report from the Committee on Pensions. I ask to have the bill read and considered, and I call the particular attention of the Senator from Arizona [Mr. ASHURST] to it.

The VICE PRESIDENT. The Secretary will read the bill.

The Chief Clerk read the bill (S. 1156) granting a pension to Lois I. Marshall, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll the name of Lois I. Marshall, widow of Thomas R. Marshall, late Vice President of the United States, and pay her a pension at the rate of $5,000 per year from and after the passage of this act.

Mr. ASHURST. Mr. President, relying upon the fact that the beautiful doctrine of noblesse oblige is not dead in the Senate, I ask the Senate to do the handsome thing, which has already been too long delayed, and pass this bill.

It proposes a pension for Mrs. Thomas R. Marshall during her lifetime of $5,000 a year. During the World War important and expensive duties were cast upon the Vice Presi-

dent and his wife. Mrs. Marshall is living to-day in modest circumstances. I shall say no more than that the Senate of this rich Republic, upon which the Creator has showered His blessings, ought to rise to the spirit of this hour and in the spirit of true Americanism pass this bill without a moment's delay.

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

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

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

CONTROL OF RADIO COMMUNICATIONS

Mr. BLEASE. Mr. President, I ask to have inserted in the RECORD an editorial from the WCFL Radio Magazine, volume 2, winter, 1928–29, No. 1.

There will be found in the CONGRESSIONAL RECORD of July 1, 1926, page 12508, a short statement made by me in reference to this matter; also, on July 2, 1926, page 12614, there will be found a statement from the Senator from Washington [Mr. DILL], in which he said:

The bill does not give the commission the power of censoring programs, but, instead, there is a provision in the bill which specifically prohibits the commission from censoring programs in any way.

It seems, Mr. President, that while I was the only Member of the Senate who opposed and voted against this radio bill, the majority are coming over to my side, and that my predictions as to the results of it are now giving them very serious and grave concern.

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

WHAT ABOUT THE RADIO TRUST?

Congress is in session at Washington.

The session will expire March 4, 1929.

Congress has much work to do, and it must work fast to do it.

But there is nothing more important for Congress to do than to break the monopoly of the Radio Trust.

Last summer's campaign was a radio campaign.

The election was a radio victory.

It proved how dangerous a radio monopoly could be to the life and safety of the Nation.

It proved that radio must be kept free; that it would menace the Republic if radio were ever to become the tool of private monopoly.

The executive department at Washington does not seem to understand this.

Therefore the legislative department must do the work of the executive department.

Seven years ago Attorney General Daugherty gave the Radio Trust an immunity bath.

That immunity from prosecution has been sanctioned by every one of his successors.

Five years ago the Department of Justice began what it called an "investigation" of the Radio Trust. It has been "investigating" ever since. It has done nothing. And the Radio Trust has escaped prosecution.

In 1924 the Federal Radio Commission issued a formal complaint against the Radio Corporation of America, the American Telephone & Telegraph Co., the General Electric Co., the Westinghouse Electric & Manufacturing Co., and the United Fruit Co. charging that they were a radio trust violating the Sherman and Clayton laws.

The Federal Trade Commission has been "investigating" that complaint ever since. It also has done nothing and the Radio Trust has escaped prosecution.

The Federal Radio Commission was intrusted by Congress with the control of the air.

It has destroyed a large number of independent broadcasters to make more room on the air for the superpower chain stations of the Radio Trust.

It has declined to enforce the antitrust clauses of the radio law.

It is threatening to destroy even more independent broadcasters that the trust stations may have an even greater share of the air.

The United States Government owns a radio patent which the Supreme Court has declared to be the basic patent in a large branch of the radio art—the famous Schloemilch and von Bronk patent. The United States Government has licensed independent radio manufacturers to use this patent. The Canadian supreme court declared invalid the competing patent—the Alexanderson patent—owned by the Radio Trust. The Radio Trust is using this alleged patent to mulct independent radio manufacturers out of millions of dollars in royalties. The Navy Department is custodian of the Government's radio patents, but it has made no move to protect the Government's property against the trust.

Only Congress can force these branches of the executive department to act.

When the Department of Justice comes to Congress for funds the Attorney General should be asked why he has not prosecuted the Radio Trust.

When the Federal Trade Commission comes to Congress for funds the commissioners should be asked why they have not enforced the law against the Radio Trust.

When the Federal Radio Commission comes to Congress for funds the commissioners should be asked why they have destroyed the independent broadcasters to strengthen the monopoly of the Radio Trust.

When the Navy Department comes to Congress for funds Secretary Wilbur should be asked why his department has not protected the Government's radio patent rights against the Radio Trust.

Only Congress can do this.

It is the duty of every Senator and every Member of the House of Representatives to study the evil history of the Radio Trust.

It is the duty of Congress to see that the Radio Trust is dissolved.

It is the duty of Congress to keep the air free.

PROPOSED NICARAGUAN CANAL

Mr. EDGE. Mr. President, I ask unanimous consent to have inserted in the RECORD an editorial from the St. Louis Post-Dispatch of January 8 commending the proposed survey of the Nicaraguan canal.

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

THE NICARAGUA CANAL

It is, of course, improbable that traffic through the Panama Canal will continue indefinitely to double every five years as it has done since the canal was opened in 1914. Nevertheless, as was pointed out by an admirable news story from Washington in the Post-Dispatch of last Sunday, the Panama Canal will in another 12 years have certainly exhausted its capacity and will, in the event the Nicaragua canal is not by that time under construction, have to be enlarged.

This certainly constitutes the true argument for the Nicaragua canal. That is, to make the Panama Canal a sea-level canal, which would have to be done substantially to enlarge it, would cost approximately as much as the Nicaragua canal will cost. The Panama Canal originally cost $445,000,000. It is estimated that either to make it a sea-level canal or to build the Nicaragua canal would cost a billion dollars.

This being so, the advantage lies with the Nicaragua project. Only 21 per cent of the traffic through the Panama Canal is to or from the west coast of South America. The other 79 per cent is to and from other parts of the world, almost all of them lying north of Panama. For this 79 per cent of the traffic the Nicaragua canal, lessening the distance between New York and San Francisco by 434 statute miles, would mean the saving of a day. The cost of operating cargo ships averages $500 a day. The United States Shipping Board estimates that this would represent to ships going through the Nicaragua canal, and bound neither to nor from the west coast of South America, a total annual saving of $3,400,000.

That is the case for the Nicaragua canal. In the growing importance of costs to all sea commerce, it is a good one. There are, as well, the political considerations to which Senator EDGE, of New Jersey, leading sponsor of the Nicaragua canal, has called attention. To be associated as we would be by so great a project with Nicaragua, Costa Rica, Salvador, and Honduras would unquestionably exert upon the upper isthmus the same stabilizing influence which the Panama Canal has had upon the politics and commerce of the lower isthmus. The Nicaragua canal would place all that part of Central America, including Mexico, upon one of the great highways of commerce. It would take their seaports, sleeping in dreams of the golden past, and make them the busy modern communities which the Panama Canal has made of Colon and Panama City.

The Post-Dispatch agrees with Senator EDGE that we should at once busy ourselves with the preliminaries necessary to getting the Nicaragua canal under way. We owe it to Central America, upon which we have thrust ourselves, to make that invasion beneficent. We owe to world commerce the economies which the canal would bring. We owe to posterity that good report of our trusteeship in Central America which history gladly makes for Rome. Says Stanley Baldwin, Premier of England: "We English must never forget the debt we owe to Rome. She gave us our architecture, our law, our civilization." Because we some time mean to build the Nicaragua canal we have destroyed the tribunal built up by the Central American Republics among themselves by refusing to let it have a voice in our plans for the canal. That being so, we owe them the canal itself and what it will connote.

ADDRESS BY REPRESENTATIVE-ELECT LUDLOW ON FUTURE OF DEMOCRACY

Mr. DILL. Mr. President, I ask unanimous consent to have printed in the RECORD a speech by Representative-elect Louis Ludlow at the Seventy-fourth annual Jackson Day banquet, Wooster, Ohio, January 8, 1929.

The PRESIDING OFFICER (Mr. FRAZIER in the chair). Without objection, it is so ordered.

The address is as follows:

THE FUTURE OF DEMOCRACY

Mr. LUDLOW. With the election over and the evidence of the debacle still visible on every hand, there is nothing more meet and proper for Democrats to do at this crisis in our party affairs than to betake ourselves in meekness and lowliness of spirit to Monticello and there reconsecrate ourselves at the feet of Thomas Jefferson. And when we seek to renew communion with the father of democracy let us fervently hope and pray that never again will we wander so far from the old home as we did in the recent campaign, when the fundamentals of our party faith were all but forgotten; when lifetime peaceful neighbors suddenly became virulent enemies; when brother was arrayed against brother and families were torn asunder by bitter and biting recriminations, all on account of issues that were as foreign to the genius of democracy as the brightness of midday is distinguished from the Stygian blackness of midnight.

Grievous as have been our meanderings, it is a mistake to assume that the aberrations of one campaign have in any wise diminished the vital force of democracy. There is no more ludicrous postelection outcropping than the cocksure dictum of hopeless volunteer morticians that the Democratic Party is "dead." A party that polled 15,005,497 votes in spite of the unfortunate and untoward circumstances that divided us in the recent campaign is not exactly a moribund party. Our national ticket polled 1,078,157 more votes than the combined votes cast for three successful Republican presidential candidates of bygone years: Hayes, Garfield, and Harrison. Think of it! It polled 290,853 votes more than were polled by two other successful Republican candidates combined—McKinley in 1896 and Taft in 1908. Think of that! It polled within 719,519 votes of as many as were cast for Coolidge when he swept the country in 1924, and within 1,146,703 of as many as were received by Warren G. Harding in the great landslide of 1920. These figures speak more eloquently than words of the inherent strength and vitality of the Democratic Party and the hold it has on the masses. The foolish persons who speak glibly of the demise of the Democratic Party should remember that democracy, the democracy that wrote the Declaration of Independence and impressed its stamp of righteousness all over the Government of the United States at its beginnings, is composed of those indestructible qualities that go to make up the franchise of freedom. They might as well talk of destroying friendship or of blotting love out of the human heart. It can't be done.

What the Democratic Party needs at the present time is no mourners—there is no corpse—but a revival of Jeffersonianism, a steeping in the ancient party faith, with a determination such as actuated the grim old warrior of the Hermitage when he waged his epochal campaign 100 years ago to make the principles of that faith a living realization. We need to return to elementals, to examine once more the philosophy that makes us Democrats. God gave us a beautiful world to live in, with riches enough to make everybody happy. It is inconceivable that there would ever be a time when the resources of the earth, bending to the genius of man, would not prove adequate to enable all human beings to live in happiness and contentment, if life were guided unerringly and universally by the golden rule of doing unto others whatsoever ye would that others would do unto you. But some men are selfish. They want to crowd their fellow mortals out of the picture and lay up treasures for themselves beyond all human needs. They are always striving, through privileged statutes and executive concessions, to pile up wealth that Midas with his golden touch might envy. Others are born tyrants, cursed by an insatiate desire to lord it over their fellow beings. With such elements at work pursuing their selfish aims, human society becomes warped and the designs of the Creator are frustrated in the same measure that special privilege has its sway.

Thomas Jefferson, the philosopher, and Andrew Jackson, the protagonist in the great battle for equal rights, set themselves with nerves of flint against these perversions of government. Both saw that special privilege has a thousand hands, and each hand has an itching palm to clutch the fruits of honest industry. "We declare it to be self-evident that all men are created equal," wrote Jefferson in the opening sentence of the Declaration of Independence, and there you have not only the cornerstone but the archway and the superstructure of the greatest temple of government ever erected among men. Just as the Nazarene, by his whole life and example, and especially by his inspired utterances on the mount, pointed out that the strong and the rich and the powerful have no corner on heaven, so Jefferson demonstrated in his chart of freedom that glows with living light that the welfare of the individual should be the prime aim and purpose of temporal government. He might have compressed his philosophy into a sentence of seven words: "Keep the lanes of opportunity always open!"

And therein lies the future of the Democratic Party. That is what it should set itself doing now and henceforth. "Keep the lanes of opportunity always open."

Let Democrats buckle on their armor once more to fight not Democrats but special privilege. Let them feel, if they can, the heartbeats of Thomas Jefferson as they kneel at the feet of the great humanitarian and pray for guidance, and then let them breathe into their nostrils some of the fire of "Old Hickory," as they go forth, as he did, to battle, with unfaltering faith and courage that touched the stars, for human freedom and the rights of man.

This is big enough a program for the Democratic Party, not only now but forevermore. For the conflict between special privilege and equal rights is eternal. Men may come and men may go, forms of government may change, the sun himself may grow dim with age, but this conflict goes on forever.

If the Democratic Party of America has learned from the recent catastrophe the lesson that it does not pay to wander among the miasmas of hate; that elections are to be won by it on fundamental issues of opposition to special privilege and bureaucracy instead of on collateral questions of ephemeral importance and sheer expediency; if on sober, sound reflection it has learned these things, as I believe it has, then defeat already has been turned to victory and the party faces a glorious future of service.

I have made it my business since the election to interview most of the leaders of our party in both branches of Congress touching the future of democracy, and I find among them a practically unanimous desire to seek a way out of the wilderness and a practically unanimous opinion that the way leads by the gates of Monticello. I am as confident as I ever was of anything in my life that if we only had an Andrew Jackson to lead us we would soon be started in the direction of the promised land. I do not believe it will be difficult for Democrats to get together, and from my investigation I am convinced the following four points will be the ultimate basis of reunion:

1. A tacit agreement that there shall be no proscriptions on account of religious differences, and that the waning religious issue shall be permitted to fade out of existence.

2. Recognition by the vast majority of Democrats that whether or not, as many believe, the eighteenth amendment is as permanent a part of the Constitution of the United States as the amendment against slavery, it is a subject on which both Republicans and Democrats are divided and should never again enter into political campaigns as a party issue.

3. A grim resolve to fight special privilege and to keep the lanes of opportunity open for all deserving men and women.

4. A solid front against Federal bureaucracy and paternalism, to the end that taxes may be reduced, centralization may be checked, and the priceless boon of local self-government may be restored to the people.

These four points comprise the essential basis of a get-together policy which I am led by the consensus of leaders whom I have interviewed to believe will afford common ground for a reunion of the party during the next three years into a militant, aggressive, forward-looking organization. I have canvassed leaders of all wings of the Democracy that flapped so inharmoniously in the late campaign, and not one leader was irreconcilable. With a touch of sentiment almost bordering on pathos, one remarked, "I want to go home," and when I asked him what he meant by "home" he replied:

"The principles of Jefferson and Jackson are good enough for me."

When the Democratic Party holds true to the course charted by Jefferson and Jackson it wins. When it takes up quarrels and issues of momentary expediency and puts them ahead of "equal rights to all, special privileges to none," it loses. When it wanders after strange gods the people no longer have their former interest in it. They chasten it with defeat, but always there comes a time when the mists clear away, when it returns to the fundamental doctrines of the fathers, which are as sound to-day as a century ago, and then it rides triumphantly to victory. The Democratic Party is always needed to fight the battles of the common man who, though born naked into the world, nevertheless possesses a kingly dignity and certain inalienable rights, including the right to life, liberty, and happiness, which are coexistent with his birth and coextensive with his being. It is needed to checkmate the grasping pirates of privilege, to strike at extravagance and waste, to "keep the lanes of opportunity open." When it is used either as a battle ground to settle grudges or as the vehicle for some passing fad it ceases for the time to be effective, and its return to power depends upon how soon it shakes off the will-o'-the-wisps and returns to fundamentals.

I know that in certain circles it is customary to speak of Jeffersonianism as something archaic and old-fashioned. It is nothing of the sort. There are some things that never grow old. The Sermon on the Mount is the same flood of light now as when the Master delivered it. The principles of Jefferson, adapted to present conditions, are to-day the best solvent of our national problems.

The problems of our time in their broad, general scope are very much the same as the problems that confronted the sage of Monticello and that faced the stern warrior of the Hermitage an even century ago when he led the outraged farmers and toilers in his fierce fight on the minions of special privilege. It is true there is to-day no national bank with a death grip on the country's throat—the Federal reserve

act of Woodrow Wilson's administration marked the end of political control of the banking system—but a thousand Nicholas Biddles are operating in a thousand ways to filch the honest earnings of the poor, and their nefarious occupation is made possible by privileged statutes and moss-grown practices that will some day fall before the artillery of another Andrew Jackson when the roll of the masses is called and the plain people again come into their own.

Governments do not create wealth. No government on earth ever made a dollar of real value. Wealth is created by the brain and brawn of men and women. But governments can, and do, influence the distribution of wealth in ways that do great injustice to the creators of wealth. The government that takes wealth from its creators and turns it into the coffers of favored beneficiaries who have no right or title to it is not an honest government. It fosters a class of Robin Hoods, who toil not, neither do they spin, but who in all that makes for comfort and softness of living are bestowed as happily as Solomon in all his glory.

I verily believe that if Jefferson and Jackson could realize how this country is rushing pell-mell toward centralization; how rampant special privilege has grown to be; how bureaucracy, enthroned in Washington, exercises lethal dominion over the land and the inhabitants thereof, they would turn over in their graves. For there is hardly any conceivable paternalism of which the Government is not now guilty, from running a railroad to instructions in the homely art of putting the swaddling clothes on a baby. Bureaucracy is in full flower at Washington and the bureaucrats are becoming the lords and masters of the Nation. There is no private business that is safe from interference, for a bureaucratic army of 30,000 agents, inspectors, and spies is abroad in the land, tantalizing business interests and stealthily prying into the private concerns of individuals.

While the farmers of our country are begging Congress for relief from intolerable conditions and getting a stone, 9,000 agents and inspectors of the Department of Agriculture, composing a legalized army of spies, are out in the rural districts harassing the men of the soil with inquisitorial rules and regulations hatched in the bureaus at Washington. When the farmer asks for bread the bureaucrats give him a peremptory order to clean up his premises. When he suggests a tariff that will afford him at least half the show in the game of life that is accorded the industrialists he is answered by the crack of rifles killing his livestock. If ever a class of our people had a special grievance, the farmers of America are in that fix now. While inflation of the war period still exists for the benefit of the industrial and commercial classes the farmers have been crucified by deflation. While Congress gives them the husks of empty promises the bureaucrats ride them with regulations, seen and unseen, and they are forced by tariff legislation passed in the interest of the industrialists to pay top prices for all the things of life. Their situation is best described as being nothing it should be and everything it ought not to be, and presently, if they see the facts in their true light, the farmers will be looking for an Andrew Jackson to speak in their behalf to the masters of privilege in the thunderous tones of righteousness that brought the people's oppressors to their knees 100 years ago.

From the vantage point of the press gallery at Washington I have been watching for nearly 30 years the processes of government run. I would be less of a patriot than I think I am if I did not feel a deep concern for my country, having beheld for so many years the deadly growth of centralization and its accompanying evils, bureaucracy and paternalism. Slowly, but surely, the Federal Government has taken on enormous powers by robbing the sovereignty of the States until to-day it rides astride the Nation like a colossus. Even the most uncompromising apologists of Federal power now admit that the Washington Government has become "top-heavy." The States are not blameless. When offered this, that, or the other appropriation as a gift from Washington they have permitted themselves to be insidiously seduced, ignominiously surrendering their power, one after another, to the bureaucrats. Everywhere there has grown up a deplorable tendency to look upon Washington as the Nation's Santa Claus and to yield priceless local freedom as the exchange for appropriations that in the last analysis come out of the pockets of the people who suffer by the exchange. Bureaus once created never die. In my long experience I have never known of a bureau being abolished. Starting very humbly and with barely enough appropriation and personnel to get the camel's nose into the Treasury they soon begin to flourish like the proverbial green bay tree and keep on growing until the camel's entire body is inside the breastworks.

It was the design of the fathers that all of the executive functions of government should be transacted by the great Cabinet departments, of which there are now 10, but as centralization has gone forward with seven-league boots commissions, boards, and other agencies have been created that outnumber the departments 4 to 1. Nothing more vividly illustrates the extent to which extra constitutional powers have been assumed by the bureaucrats than the fact that there are now more than 40 commissions, boards, and independent establishments, reaching out their tentacles in all directions, grabbing powers of the citizens, weakening local self-government everywhere, sapping State sovereignty, and spending every year hardly less than a billion dollars wrung from the earnings of the taxpayers.

Once I thought I had found a Government commission that was not gifted with everlasting life, but I was mistaken. It was the National Screw Thread Commission. I doted on that commission because, of all the commissions I knew, it apparently was one that was mortal. And then it was such a romantic commission! After Congress seemingly had exhausted the whole gamut of possiblities in devising commissions to exercise paternalistic dominion over the people it scratched its collective head, thought long and hard, and then brought forth a commission to standardize screw threads. There is your beau ideal of a commission—one to standardize screw threads! I was in the Press Gallery when the bill passed and I gave three inward cheers because, tucked on at the end of the act, was a clause limiting the life of the commission to six months.

That was back in 1918. Ten long, eventful years have elapsed and the commission is still going strong. It has attained a robust existence and an honored and permanent place in the Congressional Directory, where it may be seen on page 327. Three times its life was extended, and finally Congress got tired of this piecemeal business and made it a "continuing commission," so I suppose we shall have the screw threaders with us forever. And in this land of opportunity what an incentive it is to every honest and ambitious statesman to so live and serve his party that in the mellow evening of life he may approach the lengthening shadows with calm and peaceful dignity as a member of the Screw Thread Commission.

What are the evidences of centralization? He who essays to answer that question will find his task well-nigh interminable. I shall not undertake to do more than glimpse a few examples on the horizon. The Government for some 10 years has been operating a barge service on the Mississippi and Warrior Rivers. It bought and owns the capital stock of the Inland Waterway Corporation, the former owner of the barge line. The Government conducts the river business and it owns and operates terminal railroads. Deficits, when they occur, afford no concern, for they are conveniently paid from the taxpayers' money in the Federal Treasury. It is the same as if the Government, with all its power and resources, should decide to operate an electric railroad from Wooster to Canton in competition with private enterprise or, on a greater scale, should initiate a Federal-owned transcontinental railroad service, using the resources of the Treasury to buck competing lines. Will some one kindly explain to me what business on earth the Government has of operating a barge canal?

I doubt whether even the Bank of the United States in the palmiest sway of Nicholas Biddle, when Andrew Jackson determined to strike it down as a national menace, ever possessed more power over the welfare of our citizens than the power, statutory and assumed, that is to-day possessed by the Interstate Commerce Commission. Please do not construe me as imputing any tyrannical intentions to the Interstate Commerce Commission. I know Ernest I. Lewis, chairman of the commission, intimately, and I say unreservedly that it is fortunate for the country he occupies the position. He is wise, level-headed, and as patriotic a man as there is in America, but I shudder to think what could happen if the commission should fall into the hands of selfish and designing men who would exercise their powers tyrannically. Probably all of the commission's acts to date have been righteously conceived and beneficently executed. I know nothing to the contrary. But in the Lake Cargo decision it unquestionably proved that it has the power by manipulating rates to prosper one community and blight another; to transfer misery and squalor from one section to another section; to make one city blossom as the rose, while another fades and withers. Congress itself has no magic wand to do things like that. Therefore it is difficult for me to conceive how Congress, if it chose, could delegate such powers to its creature, the Interstate Commerce Commission; but somewhere out of the mysterious sky the commission has grabbed these miraculous powers and folded them to its bosom.

Bureaucracy, overmanned, everexpanding, often arrogant, touches with its domineering attitude almost every phase of life. If Andrew Jackson were in the White House, many of these bureaus would subside or, by the eternal, there would be a warfare that would rock the continent. Take, for instance, the Bureau of Indian Affairs. It is weighed down with highly paid officials whose names fill page after page of the Official Register, so that one almost wonders who gets the lion's share of the thirteen and a half million dollars appropriation annually—the bureaucrats or the Indians. As long as poor Lo is regulated and coddled by bureaucracy, he will remain a helpless and pathetic ward of the Nation, but if the bureau were abolished and he were turned over to the States, he would have an opportunity to learn something of the rights and obligations of citizenship. That would be hard on the bureaucrats, but some very good thinkers believe it would be good for the Indian and the taxpayers. In the atmosphere of bureaucratic Washington, the seasoned observer can not escape the conclusion that many bureaus do not exist to serve the people quite so much as to give fat-salaried and high-powered jobs to bureaucrats.

Bureaucracy has produced myriad forms of paternalism which paralyze individual initiative and tend more and more to centralize the Government at Washington. This aggression, so destructive of local self-government, is not resented as it should be because it comes sugar-

coated in the guise of a great boon from the Federal Government. The popular slogan "Let Washington do it" would be more meaningful if it were couched in that other pharse: "Let us surrender our rights and powers to a centralized government." The people who are complacently yielding to this piecemeal dismemberment of local self-government should know that in encouraging the centralization of their affairs in Washington they are digging the grave of the American Government as it was conceived by the fathers. I fear that unless another Andrew Jackson arises to arouse resentment against the trend of government and pilot the ship of state into safer channels, we shall ere long have a republic in name but an absolute bureaucracy in fact, which has been described by no less an authority than Senator BORAH as "the most wasteful, the most extravagant, the most demoralizing and deadly form of government which God has permitted to torture the human family."

Instances of paternalism, big and little, hit us in the face at Washington every time we turn around. The Department of Agriculture has just completed a survey of fibers used in men's clothing and announces its solemn conclusions in Miscellaneous Publication No. 31. The survey discloses the horrendous fact, recorded on page 3, that many men are not wearing union suits, undershirts, or drawers, and the equally stupendous fact that 57 per cent of the men replying reported that they are wearing more silk and rayon socks than they had during the preceding five years. Here paternalism makes some epochal revelations, but it falls short of its duty. It should inform us whether or not it is true that the men are deliberately doing without underwear in order to build up the financial stamina necessary to acquire the silk socks. And if this is found to be true, then paternalism, in order to keep up to date and vigilant, ought to swing into action with a counteracting money-squandering campaign for a better-drawered manhood.

While the paternalistic Department of Agriculture is thus revealing a shocking absence of men's nether garments, the Department of Commerce's frog is jumping into prominence faster than Mark Twain's "jumping frog," which may partially be explained by the fact that it does not have as much lead in its insides. When it comes to shining examples of paternalism the bulletin of the Department of Commerce on the propagation of frogs will always be outstanding. Common sense would suggest that the Federal Government should leave the task of propagating frogs to individuals who are frogistically inclined, but Uncle Sam, standing away up there in his supernal majesty, orders the steady, easy-going frog to multiply and replenish the earth. There is in this book a most romantic chapter on the love affairs of frogs which brings to mind the old nursery rhyme:

"The frog he would a wooing go
Whether his mother would let him, or no."

We learn from this chapter that the gentleman frog sings, or rather croaks, when in love, and that he does not hesitate to die in battle in an effort to win his lady.

It remains for the Cornell savant who wrote this bulletin for the department to furnish clear and specific directions which any boy who aspires to be a frog culturist may readily grasp. For instance, quoting from the bulletin:

"The aquatic salamander, like the newt, frequently pulls off eggs from a frog's egg mass for food. The large forms, like the mud puppy (Necturus) and hellbender (Cryptobranchus), may eat frogs' eggs or larvae if favorably situated. Among frogs there are several species whose adults do not stop at fratricide or cannibalism. In fact, it is one of the factors which has led some frog culturists to abandon bullfrogs, which will feed on anything from frogs to alligators, not even sparing their own progeny."

The freckled Ohio lad who wanders around barefooted in the marshes and herds his frogs will know hereafter—thanks to good old Uncle Sam—that he must be on the look-out for the Necturus and the hellbinder or the Cryptobranchus. However, he may extract some comfort from the reflection that by the time one of his fractious bullfrogs has devoured an alligator it probably will be tired enough to hunt a corner somewhere and rest. I have heard it said that some tight elections have been won by polling the frog vote, and I recommend this bulletin to our politicians who are interested in increasing the number of frogs.

The modest oyster, which takes all kinds of insults without squealing, is the subject of more than 20 Government publications dealing with its habits, its ancestry and its crustaceous kin, and its ultimate gastronomic destination. In one of its absorbing works entitled "The Principles of Window Curtaining," the Government directs housewives how to arrange their window curtains. Numerous bureaucratic publications are devoted to instructing mothers in the duties of motherhood, and in every instance the author of the publication is a confirmed old spinster.

A United States Senator told me the other day that when he was in the Far East he read a survey of the industries of Japan, issued by one of our Government commissions. It was regarded in the Orient as a standard work. It occurred to him that it was very kind of our Government to go to the trouble and expense of performing this service for Japan, but that it probably would be a long time before Japan or any other foreign country surveys our industries for our benefit.

Congress this winter is living up to its usual paternalistic form. For the purpose of enabling the Public Health Service to send out emissaries and teach the people how to kill flies, screen their windows, drink pure water, and otherwise take good care of themselves, after the normal fashion of sane and circumspect beings, Congress passed an appropriation of $250,000 in the Treasury appropriation bill. The Senate tried to add $47,000 to this amount, but that was a little more than even the fatherly house could stand, and the extra amount was stricken out in conference, leaving an exact quarter of a million to be spent for this beneficent education in fly killing, window screening, etc. Be it said, to the credit of Representative WILLIAM R. WOOD, acting chairman of the House Appropriations Committee, an able and consistent foe of paternalism, that he fought this nonsense from start to finish, but he could not get the support necessary to defeat it.

How Thomas Jefferson and Andrew Jackson would shudder if they could see the Government doing all it does to-day, from operating ships and railroads to prescribing castor oil for babies! If the drift toward paternalism continues, we shall have American life standardized according to forms prescribed at Washington; education will be acquired through uniform textbooks and the everlasting sameness will destroy individuality and initiative in the growing youth; the bureaucrats will tell us what to think and how to think it!

The natural accompaniment of this luxuriant paternalism is a perfect maze of laws which confront the citizen at every turn and annoy him with statutory "Thou shalts" and "Thou shalt nots." The dictum enunciated by Jefferson and supported by Jackson of "the least governed, the best governed" has been perverted by the bureaucrats into "The most governed, the best governed." Altogether there are 52,499 statutes, which have been codified into a volume of 2,465 pages and over 5,000,000 words. The purpose of every paternalistic statute is to coddle somebody or some class and the expense of coddling is borne by those who are not coddled. The people pay the freight. The whole network of paternalism is only special privilege in another name, and it is special privilege run wild. The theory underlying all paternalism is that some are to prosper at the expense of all. It is a false theory; it is undemocratic; it is un-American.

As Democrats we should take a stand for economy in Government; for the stoppage of the enormous waste; for a simplification of the forms of government; for the elimination of bureaus and agencies that are pyramided sky-high on the fundamental structure of our fathers until the amazing superstructure entirely obscures the original and grinds our people with needless and oppressive taxes. In Washington we have half a dozen bureaus, each with its own overhead, gathering statistics, when one statistical bureau would suffice for all purposes. We have one department with jurisdiction over the polar bear, another with jurisdiction over the black bear and still another lording it over the cinnamon bear.

We have bureaus vying with each other in spending the people's money without any sense of cooperation or economy, as when the Army and the Navy during the World War and thereafter went out into the markets and insanely competed with each other in the purchase of supplies, each seeking to secure the utmost advantage over the other. In a reorganization of the Government, in the abolishment of paternalistic bureaus and in a systematic coordination of other bureaus to do away with overlapping, all to the end of restoring Jeffersonian simplicity and efficiency in American institutions, democracy faces one of its greatest opportunities. We should not only take a stand against these sinister spawns of paternalism but we should fight them incessantly until the whole country becomes aroused to the danger that confronts us. Oh, for another "Old Hickory" to lead our Nation in these crucial times!

With special privilege corrupting the body politic and breaking out in such hideous splotches as the oil scandals; with centralization all but complete and paternalism everywhere invading fields that should be sacred to private endeavor, the hope of the Nation is in a return to common honesty in government. From out of the background of history come the glory circled figures of Jefferson and Jackson to point the way. In them the image of God shines most brightly. Just as they held true to human rights in the beginning, so will they not fail us now. Let us, one and all, cultivate their love of humanity until it becomes once more a flaming torch to light up the cities and the deserts, the prairies and the granite hills. And as Democrats who believe in Jefferson and Jackson let us not fail to exemplify in our own lives the wonderful philosophy of helpfulness and equality, one toward another.

The beauty of our philosophy is that it fosters comradeship. It makes brothers of you and me, and all of us. It binds men one to another with hoops of steel. It recognizes the eternal truth that a hickory shirt or calico dress may cover a heart as pure and true as any that beats beneath purple and fine linen; that virtue dwells as often in humble cottages and by-ways as in palaces. Unlike a government dominated by bureaucrats and catering to special privilege, it is no close corporation. Into its community of service whosoever will, may come. At its table is always spread a feast of love; it invites the oncoming generations to take their stand for brotherhood and equal rights, and posterity

throngs to the reception. We should manifest an interest in people, not for the purpose of exploiting them but for the purpose of assisting them to higher and happier levels of living. We should love our fellow men for what we can do for them and not, as the exponents of special privilege would have it, for what we can squeeze out of them. The concern of this Nation should be to see that the average citizen prospers; that however hard and drab may be the surroundings of boys and girls, in whose breasts a righteous ambition burns, they shall have their chance to grow into the larger life; that their God-given right to reach the full stature of useful manhood and womanhood and to enjoy the fruits of honest toil shall not be barred or abridged by privileged statutes and practices that rob them of their birthright before they have fairly started on life's journey.

We can do nothing finer, we can do nothing grander than to help our fellow mortals over the rough places of life. That is what Thomas Jefferson did; that is what Andrew Jackson did; that is democracy. And when democracy comes before the people unalloyed nothing can beat it; nothing should beat it, because it is in consonance with the best there is in life.

I once heard a captain of special privilege say sneeringly of one of my fellow Democrats: "Oh, he is just a plain, honest, sincere person; that's all he is." That is all any of us should ever want to be. A nation made up of "plain, honest, sincere persons" would be about as near millennial perfection as any nation I can imagine. The essence of democracy is simplicity. The greatest thing in the whole world is service, and we should not forget that true service has a spiritual quality. If I love you I will serve you devotedly, nor ever count the cost. And so it is with service on the bigger scale, commonly known as the public service. The incentive and the inspiration of all genuine public service is love, and love flows from a sympathetic human understanding.

Let us, therefore, as Democrats, strive to reestablish in this country a public service in which the individual citizen will be the uncrowned king of all; in which selfishness and sordidness will be supplanted by love and equality, as envisioned by the mighty Jefferson. Let us forget all differences and as a party fight as Jackson and his rugged followers fought to bring the Government back to its constitutional moorings. When we do this we not only will put our party in line for certain victory, but we will be rendering the very best service it is possible to render to this great American commonwealth.

LIEN FOR TAXES

Mr. FLETCHER. Mr. President, I present an opinion published in the Internal Revenue Bulletin of January 7, 1929, headed "Section 613—Lien for Taxes," which I ask may be printed in the RECORD.

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

SECTION 613.—LIEN FOR TAXES

(VIII-1-4056. G. C. M. 5432)

REVENUE ACT OF 1928 AND PRIOR REVENUE ACTS

"A notice of lien filed by a collector with the proper official covers all the property and rights of property, whether real or personal, belonging to the delinquent taxpayer, and operates as a lien on bank deposits of a taxpayer and on debts due a taxpayer though a specific notice of the lien has not been served on the bank or on the debtors of the delinquent taxpayer."

An opinion is requested as to whether a notice of an income tax lien duly filed and recorded operates as a lien on bank deposits of the taxpayer and on debts due to the taxpayer when specific notice of the lien has not been served on the bank or on the debtors.

Under the provisions of section 3186, Revised Statutes, as amended by section 613 of the revenue act of 1928, an income tax lien covers "all property and rights to property, whether real or personal," belonging to the delinquent taxpayer. This same provision was contained in section 3186 in its original form and also in its amended forms as appearing in the act of March 4, 1913 (37 Stat. 1016), and in the act of February 26, 1925 (43 Stat. 994), so that an outstanding income tax lien, whether notice thereof was filed before or after the enactment of the revenue act of 1928, must be regarded as covering all property and rights to property of the delinquent taxpayer.

The provisions of section 3186, Revised Statutes (in its original and its amended forms), have often received judicial construction, as, for example, in the following cases: Osterberg *v.* United Trust Co. (93 U. S. 424), United States *v.* Snyder (149 U. S. 210), United States *v.* Kaufman (267 U. S. 408), United States *v.* Allen (14 Fed. 263), United States *v.* Curry (201 Fed. 371), In re Wyley Co. (292 Fed. 900), Heyward *v.* United States (2 Fed. (2d) 467), In re Baltimore Pearl Hominy Co. (5 Fed. (2d) 553), and Sherwood *v.* Sherwood (5 Fed. (2d) 991).

The cited cases as a whole fully sustained the validity of the Government's lien for tax upon the property and rights to property of a delinquent taxpayer; and while those cases adjudicated since March 4, 1913 (when section 3186, Revised Statutes, was first amended to require the filing of a notice of the tax lien to make the same valid as against mortgagees, purchasers, and judgment creditors), do not specifically pass upon the question submitted, they recognize, by implication at least, the validity of tax liens, notices of which were filed in the manner prescribed by the statute.

It will be noted from a reading of section 3186, Revised Statutes, as amended by the act of February 26, 1925 (in which amended form the phraseology of the 1913 form was preserved in totidem verbis, there being inserted in appropriate places in the second proviso thereof a designation of certain local officers of the States of Connecticut, Rhode Island, and Vermont as among those with whom notice of tax lien might be filed), that a collector was under no obligation to furnish a copy of the notice of lien to any bank or debtor of the delinquent taxpayer. The collector's duty under the law was performed fully when he filed the notice of the lien in the office of the public official authorized under the statute to receive the same for filing. The identical situation is existent with respect to notices of lien filed since the enactment of the revenue act of 1928. As an administrative policy based on a desire the better to protect the interests of the United States and to enable depositaries (such as banks, trust companies, and other holders of assets or credits of delinquent taxpayers) to become advised of the existence of tax liens, collectors have been permitted to furnish depositaries with copies of the notice in exceptional cases. These copies are not furnished in all cases. Indeed, they could not be, for in a great majority of cases where notices of lien are filed the exact location of the taxpayers' property is unknown to the collector filing the notices.

Neither is the copy, whenever furnished to a private person (whether corporate or individual, as distinguished from the public officer designated by law as the proper recipient of the original notice), furnished because of any legal right to receive the same. It is intended merely as an informative document respecting the claim of the United States upon the property and rights to property of the delinquent taxpayer. The question submitted for opinion must therefore be answered in the affirmative.

In this connection reference is made to another process in the internal-revenue practice which often is confused with the filing of notices of lien. The process of distraint authorized by section 3187, Revised Statutes, et seq., is one of the processes by which an existing lien for taxes may be enforced. Under section 3187, as amended by section 1016 of the revenue act of 1924, a bank account is subject to distraint. Collectors are directed when levying upon a simple contract debt, such as a bank or other deposit, to attach to the original notification form, addressed to the depositary, a copy of the warrant of distraint and of the notice of lien. Whenever distraint of a bank account is sought to be made, the depositor is entitled to a copy of the notice of lien. In connection with the process of distraint, attention is directed to section 1114(e) of the revenue act of 1926, which indicates clearly the duty of all holders of assets belonging to a delinquent taxpayer, or in which he has legal rights, to surrender the same to the collector upon the service of a distraint warrant in order to avoid the liability imposed by this section upon one who declines to honor the collector's levy.

C. M. CHAREST,
General Counsel, Bureau of Internal Revenue.

ENFORCEMENT OF PROHIBITION

Mr. JONES. Mr. President, I have gathered together some data with reference to prohibition and prohibition enforcement that I ask may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is here printed, as follows:

FOR THE BEST AND MOST PRACTICABLE PLAN FOR MAKING THE EIGHTEENTH AMENDMENT EFFECTIVE

DURANT PRIZE CONTEST, 1928

[Progress report by Durant award office, January 5, 1929, New York]

THE DURANT PRIZE OFFERS

1. August 27, 1928, contest announced; $25,000 offered for the "best and most practicable plan for making the eighteenth amendment effective."

2. August 28, $5,000 offered for the best and most practicable plan from any high school or preparatory school.

3. Committee of award announced, as per page — herein.

4. December 1, contest closed, with 23,230 contributors from every State in the Union, every colonial possession, and a score of foreign countries.

5. December 4, committee of award organized.

6. Mr. Durant offered facilities and services for whatever study of plans the committee might direct.

7. December 4–20, all plans and supplementary letters and documents were studied; 64,000 proposals were checked and tallied in proper classifications; helpful comments, facts, or local color were crossed and noted on cards; special features were marked for later study; plans were grouped and regrouped, until 230 were left for intensive comparison, with all identifying marks removed.

8. December 20, the committee of award worked from 10 a. m. to 8.30 p. m., reading, grading, and comparing 20 plans; selected by

number the 2 plans to receive the $25,000 and the $5,000 prizes; notified Mr. Durant that they preferred to adjourn without knowing the names of the two winners; and suggested that a "mosaic" of best suggestions from all plans be published.

9. December 25, the winners were announced and renewed public discussion of law enforcement began.

FOREWORD

By W. C. Durant

JANUARY 1, 1929.

Now that the award of the prize committee has been published in full throughout the country, with its aftermath of comment from Government officials, editorial writers, and others, it may not be amiss to disclose the idea which prompted the offer made by me last summer.

Before sailing for Europe it became necessary for me to renew my passport, and in making application therefor I was required to take the usual oath of allegiance by which I promised to support and defend the Constitution of the United States against all enemies—foreign and domestic.

On my way across my thought reverted to our country's greatest domestic enemy—the bootlegger. I knew that the bootlegger, our country's greatest enemy, was so systematically organized and protected that he could, with perfect confidence and with absolute security, traffic in death-dealing and health-destroying poisons. I knew that the bootlegger, our country's greatest enemy, recognized no law and would stop at nothing to gain his ends.

I knew that Government agents were subsidized and witnesses intimidated by the bootlegger, our country's greatest enemy, and that this great criminal class were being encouraged and supported by honest, decent men and women of America, otherwise law-abiding. I feared that unless something more were done the situation would get beyond control, and while I did not wish to pose as a reformer, I submitted the prize offer in the hope that public interest might be aroused and a great national movement inaugurated that would to some extent correct the distressing and dangerous conditions existing.

On my arrival in Paris I decided to offer a prize for the best and most practicable plan to make the eighteenth amendment effective, and appointed a committee of 15 men and women of prominence and unquestioned integrity to pass upon the plans submitted. The invitation to the several members of the committee reads as follows:

"As an advocate of law observance and for the purpose of attracting the attention of the best minds in our country, I am offering a prize of $25,000 for a practicable plan, if such can be suggested, for the enforcement of the eighteenth amendment. I am desirous of securing the cooperation of men of prominence, competent to deal with a subject of such national importance, and am appointing a committee of 15 to review the plans which are being submitted in response to my offer.

"The committee will organize itself and will have entire control of the work, determining policies and methods of procedure. If, in the judgment of the majority of the committee, no practicable and worthy plan is submitted, the prize will be paid to any charity designated by the committee. I extend a cordial invitation to you to become a member of the committee and will be greatly honored if you will accept. Please understand that I am not inviting a discussion of the merits of the eighteenth amendment, but expect the contest to be confined to the best plan to make the law effective."

Plans were submitted by Federal judges, district attorneys, ex-Cabinet officers, Senators, and Representatives suggesting changes in penalties and improvements in legal procedure. Plans were submitted by prohibition officers, with valuable suggestions for extending the work of prohibition agents and in raising the level of the personnel.

Plans were submitted by ex-governors, mayors, chiefs of police, sheriffs, coroners, and prison wardens based on the illicit-liquor conditions in their own localities and their reflections on the question. Plans were submitted by thousands of other eager men and women contributing their thought and effort to the cause of law observance. A total of 23,230 plans was submitted containing information of great value. Some of these plans will be published in full, others in part. A study of the plans submitted will bring the conviction that earnest and sincere thought and invaluable constructive suggestions have been given to the subject by thousands of people.

In his speech accepting the Republican nomination for President, August 11, Herbert Hoover, referring to the prohibition situation, said:

"Common sense compels us to realize that grave abuses have occurred, abuses which must be remedied. An organized, searching investigation of fact and causes can alone determine the wise method of correcting them."

In line with Candidate Hoover's declaration, why not a congressional fact-finding committee to discover and inform the country, President Coolidge, and President-elect Hoover as to why the eighteenth amendment has not been satisfactorily enforced? This fact-finding committee would gather much information that the President needs and that the people want.

To such a committee I would gladly turn over the rich material in the files of the prize contest, but if such a committee were appointed I would suggest an appropriation sufficient to defray the expenses of many hundreds of men and women who, as evidenced by our files, would be able to give such testimony as would awaken the sleeping conscience of millions of otherwise law-abiding citizens who are now thoughtlessly encouraging and supporting the country's greatest enemy—the bootlegger.

I am convinced more strongly than ever that the people upon whom our country depends for happiness and prosperity are determined that the bootlegger, our country's greatest enemy, must go. Telegrams, telephone messages, and letters from leading business men and other leaders of public thought leave no room for doubt that a nation reared on "Don't give up the ship," "We have just begun to fight," "Millions for defense but not one cent for tribute," will never yield to bootleggers, hijackers, and official lawbreakers.

This résumé of the contest's purpose and first results is a first move toward making available the veritable mine of material contributed to our contest. I hope it will prove helpful in learning what next steps our Government and all our educational forces might profitably take toward making the eighteenth amendment effective.

THE PRIZE OFFERS

NEW YORK, N. Y., *August 27, 1928.*

The first duty of a good citizen is to obey the law. The highest law of the land is the Constitution. Part of the Constitution is the eighteenth amendment. It was put into the Constitution by an overwhelming vote, passed by Congress, and ratified by the legislatures of 46 of the 48 States. Action contrary to the law is a crime and the offender is a criminal.

For the widespread disobedience to the liquor law as embodied in the Constitution the business leaders of the country are very largely responsible. Had our business leaders frowned upon instead of encouraging bootlegging, had they observed the law and encouraged its observance, had they raised their voices in protest of public and private violations, had they used their money and their influence to obtain a fair trial for one of the best measures ever adopted by this or any other country—in other words, if they had supported the Constitution of the United States—our public officials (including our judges), our children, our servants, our employees, and the thinking public generally would without question have caught the spirit of law observance—a very necessary requisite if we are to have a safe and permanent Government.

Bootleg liquor has become the most widely advertised factor in the social life of men whose names are synonymous with success, wealth, and power in their communities. The contagion of their lawlessness spreads through the entire population. This means impairment of the carefully built safeguards of personal and property rights. Business leaders, who have the largest stake in law observance, set the example of law defiance.

It is my belief that the majority of our people do not want the eighteenth amendment abandoned. It was made a part of the Constitution because there was need of it. People want it enforced and obeyed.

In order to give expression to the soundest thought in the country on the subject I offer a prize of $25,000 for the best and most practicable plan to make the eighteenth amendment effective.

The prize will be awarded by a committee of prominent men and women now being selected.

Competitive offerings must be typewritten and not exceed 2,000 words in length and must be submitted prior to December 1 to the prize committee on eighteenth amendment, Room 2401, Fisk Building, New York City.

Prize will be awarded and paid December 25.

W. C. DURANT.

TO PRINCIPALS AND HEADMASTERS OF SECONDARY SCHOOLS

The major issue in our country to-day is the problem of law enforcement and obedience to law. To paraphrase the words of Lincoln, it is a question whether our institutions can endure with a citizenship half lawless and half law-abiding.

It is my belief that the majority of our people do not want the eighteenth amendment abandoned. The legislatures of 46 of the 48 States voted the eighteenth amendment into the Federal Constitution because there was need of it. Naturally the people want it enforced and obeyed.

In order to give expression to the soundest thought of the country upon this subject, I have offered a prize of $25,000 for the best plan to make the eighteenth amendment effective. Herewith a copy of the $25,000 prize announcement.

I have now decided to offer a further prize of $5,000 for the best and most practicable plan submitted by a student in a high school or preparatory school. Of this sum, $1,000 will be awarded to the student submitting the prize-winning plan and $4,000 to the student's school.

Your institution is invited to submit a plan selected from among those prepared by your students, the successful contestant in your school to be chosen by an elimination contest conducted under your direction. Each school is entitled to present only one plan.

The prize award will be made by a committee of prominent men and women now being selected.

Competitive offerings must not exceed 2,000 words in length and must be submitted prior to December 1. Prizes will be awarded and paid December 25.

Plans received in the high school-preparatory school competition, if of sufficient merit, are likewise eligible to compete for the grand prize of $25,000.

Possibly some of your students may be interested. The work of preparation would be an education in the complexities of our greatest national problem which, after all, must be solved by the younger generation.

Plans must be typewritten and forwarded to prize committee on eighteenth amendment, room 2401, Fisk Building, New York City.

Very truly yours,

W. C. DURANT.

WHO CONTRIBUTED?

Answers poured in from every State and Territorial possession and from every type of locality and person. One reader, through whose hands only a small part of the plans passed, jotted down the following vocations:

Ex-Cabinet officers.
United States Senators and Representatives.
Federal judges.
United States district attorneys.
Officers of the Army, Navy, Marine Corps, and Coast Guard.
American consuls.
Bureau chiefs.
Scientists in Government employ.
United States marshals.
Enforcement officers.
Secret-service men.
Postmasters and railway mail clerks.
Governors and ex-governors.
Judges of State supreme courts.
State attorney generals.
Judges of lower courts.
Prosecuting attorneys.
Clerks of courts.
Legislators and other State officials.
Sheriffs.
Coroners.
Mayors of large cities.
Chiefs of police.
Deputies, constables, and policemen.
Justices of the peace.
Wardens of prisons.
Presidents of universities.
Deans of colleges.
Professors.
School superintendents.
Principals of high schools.
Headmasters of private schools.
Instructors and teachers galore.
Bishops.
Clergymen of many denominations.
Officers of the Salvation Army.
Heads of hospitals.
Surgeons, physicians, and research men.
Captains of Infantry.
Bankers.
Manufacturers.
Merchants.
Salesmanagers.
Engineers.
Chemists.
Architects.
Electrical experts.
Lawyers.
Authors.
Editors, correspondents, and reporters.
Advertising men.
Publishers.
Psychologists.
Shipmasters.
Pharmacists.
Trainmasters, dispatchers, conductors.
Certified public accountants.
Bookkeepers.
Court reporters.
Executive secretaries.
Private secretaries and stenographers.
Clerks and floorwalkers.
Janitors.
Cigar makers.
Tailors.
Milliners.
Window dressers.
Trained nurses.
Dieticians.
Lumbermen.
Railroad employees.
Miners.
Farmers and stockmen.
Officers of farmers' organizations.
Officials of labor unions.
Leaders of the Women's Christian Temperance Union, Anti-Saloon League, and other organizations supporting prohibition.
People occupying high places in various secret, fraternal, and benevolent orders.
Officers or members of sororities and women's clubs and societies.
Officers of the Grand Army of the Republic, Veterans of Foreign Wars, American Legion, and other patriotic organizations of ex-soldiers.

To the above list many more sources might be added, including humorists, "colyumists," and contributors to vox populi or readers' forum columns of newspapers.

Over a hundred plans were received from foreign countries, although only citizens were eligible to compete. One was from a general in the Brazilian Army. Another was written by an official in China. A number of Japanese competed. Paris and France were well represented. Other plans came from England, Germany, Italy, Holland, Sweden, Norway, Denmark, Rumania, Australia, Austria, Bermuda, Brazil, Canada, Haiti, India, Mexico, Poland, Persia, and Spain. Many were written in foreign languages. Missionaries in Africa, Asia, and Oceania contributed.

A Cuban would have propaganda to show how foreigners ridicule the United States on account of its lawlessness.

A Bolivian would give rewards to those who tell of lawbreakers; take licenses away from ships and automobiles found to contain illicit liquor; give special prizes to policemen who detect citizen violators; and imprison bootleggers three years.

A Peruvian would recognize that the solution must start with the family; would hold parents responsible for minors' offenses; and have equal penalties for women.

A Frenchman would have citizens recognize that the best way to suppress is to replace and would have wine cultivated to replace liquor.

Two plans from Brazil agreed in recommending that photographs of lawbreakers be publicly displayed. Two agreed that offenders should lose their civil rights. One would treat medical alcohol chemically so as to make it undrinkable, imprison all those found under the influence of drink until they tell where they got it, confiscate all property of those found to manufacture not under the law, confiscate all machinery and accessories of law violation, have employers promise to discharge all drinkers, and deport foreigners found to be violating the law.

Another Brazilian plan would take licenses away from physicians found to violate the law, would send a person to jail for a third offense, take civil rights away from bootleggers, and broadcast posters for public education.

THE COMMITTEE OF AWARD

Fifteen accepted Mr. Durant's invitation to serve on the committee of award. Ten participated in the final reading of 20 plans and selecting two winners. They were:

Chairman, W. O. Thompson, president emeritus Ohio State University and moderator of the Presbyterian General Assembly, Columbus, Ohio.

Secretary, William H. Allen, director of the Institute for Public Service, New York.

George Gordon Battle, attorney, New York.

Dr. S. Parkes Cadman, minister, editor, radio teacher, Brooklyn (by proxy).

Maj. Gen. James G. Harbord, president of the Radio Corporation of America, New York.

Robert L. Owen, former United States Senator from Oklahoma.

Owen Roberts, attorney and special United States counsel, Philadelphia.

Elmer Schlesinger, attorney, New York (by proxy).

G. P. Whaley, president of the Vacuum Oil Co., New York.

The following were unable to attend:

Jane Addams, Hull House Social Settlement, Chicago, because of illness; United States Senators BORAH and GLASS were detained in Washington by legislative duties; Bruce Barton, advertising specialist and author, New York, was unable to return to the city in time; William G. McAdoo, former Secretary of the Treasury, had unavoidable appointments in California, but wrote principles which he felt should be followed; Dr. Stephen S. Wise, rabbi and lecturer, New York, was unexpectedly called to Europe.

HOW CONTRIBUTIONS WERE STUDIED

Every contribution was read by an editorial staff of over 50 editors, governmental researchers, social-science teachers, and school principals at least twice, the more valuable ones from 10 to 20 times or oftener.

Besides being read for the purpose of grouping plans and deciding which should have a more careful study, every contribution was read and

marked for its specific proposals and for its notably useful facts, diagrams, local coloring, or comments. In all, 64,257 proposals were tallied and classified. Moreover, several thousand cards containing material for ready reference are in the permanent file, properly classified under the tally sheet headings.

Thus, besides two winning plans, the contest produced innumerable constructive suggestions that can be wrought into a mosaic or composite best plan for official and citizen use.

Thus plans which were repeatedly placed in group 1 by different readers were finally "denamed," so that future readers should not find the name, address, or any other distinguishing mark upon such a paper. There were 230 of these, which went through several elimination steps, until 20 plans were selected for submission to the committee of award as indubitably the best among 23,230.

On December 20 the committee of award met from 10 a. m. to 8.30 p. m. The plans before them bore no distinguishing marks. The names and addresses of the 20 contributors were in sealed envelopes which the committee never opened. Instead, it adjourned without knowing who the two winners were, preferring to learn, as the public would learn, from the newspapers the day after Christmas.

Many a plan contained so many separate suggestions and so many quotable phrases or otherwise usable data that the checks for suggestions and x's for words to be typed on cards made it look like the mottling of chicken pox.

Although 64,000 suggestions were made, it was difficult, in the hurry with which this work must be done, to convince readers that instructions meant literally what they said, namely, that every single suggestion should be checked. While, therefore, no suggestion appeals in the tally sheet which was not made one or more times, the figure 64,257 is an understatement of the total number of suggestions actually accounted for by the study which Mr. Durant made possible.

WHAT PLANS ARE PROPOSED

In all, 64,257 specific proposals were classified and counted. Many of the weightiest plans urged continuous fact finding as to the actual working of prohibition by all supervisors of enforcement officers; by local, State, and National bodies of citizens; and by the President, as the one individual upon whom final responsibility rests, for defending the Constitution, for enforcing the law, and for learning where, if at all, modification of law is needed in order to make the eighteenth amendment effective.

The prevalence of belief that there must be the "will to enforce" is shown by 16,108 separate suggestions for different phases of basic education and propaganda and 904 proposals for indirect preparedness toward making the eighteenth amendment effective.

Several types of forceful proposals with varying approaches and emphasis are included herewith. They illustrate the many-sided help which leaders of citizen thought and action are prepared to give if Congress, the President, and the President elect will invite it.

MASTER TALLY SHEET OF SPECIFIC PROPOSALS

The 64,257 steps accounted for in the tally related to eight different phases of making the eighteenth amendment effective, as follows:

To organization for enforcement	6,996
To modifying the eighteenth amendment and the Volstead act	7,956
To State or local organization and administration for enforcing	2,569
To international relations	1,392
To education and propaganda	16,108
To procedure for enforcing	12,112
To penalties	15,520
To indirect and general resources for making the eighteenth amendment effective	904

The tally sheet is reproduced in detail with two reminders: It was a working sheet, and its order alphabetical rather than logical for speed's sake in tallying; and it is a photograph of proposals that poured in and carries neither approval nor disapproval by the Durant award office.

Belief in "cave-man" penalties and "hysterical" remedies are reported as forces deserving public study along with 400 proposals for light wines and beer, 1,536 proposals for Government manufacture and sale of liquors, an appeal to put red pants on bootleggers, 1,392 suggestions for winning other nations' cooperation in prohibition enforcement, and 736 for leadership by big business in making prohibition popular, etc.

	Number of persons suggesting
I. Organization for enforcement	6,996
A. Existing organizations	3,388
1. Army, Navy—use	1,171
2. Cabinet	129
3. Civil service—certify	62
4. Courts—more	436
5. Department of Justice, put under	669
6. Governors	116
7. President	337
8. Treasury—retain	134
9. Treasury—remove from	305
10. Other or variations of above: Department of Labor spread information	29

	Number of persons suggesting
I. Organization for enforcement—Continued	
B. New organizations proposed	3,608
1. Bureau in an existing department	114
2. Business men's committee	208
3. Citizens' committee	299
4. Commission for investigation	326
5. Department of prohibition	551
6. Dictator	422
7. Federal commission	486
8. New national society	462
9. Spy system	679
10. Other or variations of above: Enough special Federal courts; dollar-a-year men as enforcers; draft medical profession; research bureau; a West Point for enforcement officers	61
II. United States modification	7,956
A. Eighteenth amendment	774
1. Amend amendment	418
2. Change name of amendment	22
3. Referendum	181
4. Repeal	150
5. Other or variations of above: State option	3
B. Volstead Act	5,340
1. Revise generally	634
2. Light wines and beer	400
3. Government manufacture and sale	1,050
4. Government dispensing centers	486
5. Government control of grain, fruit	460
6. Government control of machinery of manufacture	352
7. Government control of denaturing plants	211
8. No permits—sacramental	259
9. No permits—druggists and doctors	489
10. New padlock law	114
11. Bond alcohol users	115
12. Make home-brewing a crime	240
13. Make violation treason	131
14. Permittees to make reports	135
15. Other or variations of above: Allow home-brew; unlimited prescriptions from doctors and druggists; no injunctions; give profits of Government handling to the poor; make every citizen an enforcement agent; put poison in all industrial alcohol; let churches distribute liquor; require purchaser to register for drug prescriptions; bond hotels; ration families; higher tax on alcohol; prohibit alcohol in patent medicines; examine records of doctors and druggists; require duplicate prescriptions, one for prohibition office; scientifically define intoxication; forbid sale of jugs, glasses, shakers, stills; require search warrants; do not require search warrants; treat Volstead violators as counterfeiters are treated	264
C. Officeholders, employees	1,842
1. Fine the lax	245
2. Hard labor for the lax	109
3. Jail for nonenforcement	717
4. Lose position	743
5. Other or variations of above: Deprive of citizenship; impeach lax judges; do away with elective judges; have more women enforcers; expose heads who do not enforce law; engage only law supporters as enforcers; impeach violating Congressmen	28
III. State or local organization and administration for enforcing	2,569
1. Control dances	69
2. Control clubs and parties	173
3. Control transportation	260
4. Federal money to State	120
5. Federal officers in State	211
6. Police—service reports	91
7. Protect State right	135
8. State director	278
9. State officers—more	231
10. State law like Federal	553
11. State prohibition districts	331
12. Other or variations of above: Disbar attorneys who impede justice; disbar lawyers defending lawbreakers; make violation a felony; punish noninformers; only dry lawyers to try cases; only nondrinkers for jury; other enforcers than sheriffs in rural districts; State's attorney as chief enforcer; State enforcement acts; close night clubs; disarm citizens; uniform State laws; permit wife to testify against husband; impeach lax governors; Federal aid for State enforcement; register drinkers; central police bureaus; nonresidents for judges and jurors; tax towns as cooffenders; a women's committee to appoint and discharge agents	117
IV. Foreign relations	1,392
1. Embassies—no liquor privileges	128
2. Foreign ships—no liquor privileges	86
3. Treaties with other nations	416
4. "Unfriendly act"—smuggling liquor	95
5. Withdraw United States consuls from liquor sources	35
6. Watch boundaries	613
7. Other or variations of above: Extend 3-mile limit to 30 or 100 miles; joint court for international violators; world convention on prohibition; require foreign visitors to obey law	19

	Number of persons suggesting
V. Education and propaganda	16,108
A. Basic education	6,486
1. Church training	1,092
2. General education—constitution	2,629
3. Parents—home training	557
4. Schools—teach civics	586
5. Schools—teach prohibition	1,465
6. Other or variations of above: Americanize; no lady teachers; educate violators; use only drys as teachers; have prize essays; use profits from Government manufacture to educate school children on enforcement; moral suasion; no motion pictures of drinkers; speed up trials; use parent-teacher associations; psychological tests for parents; post office distribute prohibition facts	157
B. Propaganda	9,622
1. Anti-Saloon League	207
2. Big men—lend support	736
3. Federal publicity bureau	363
4. Federation of churches	388
5. Government control—press and speech	392
6. Health and temperance societies	558
7. "Minute men" speeches	264
8. Movies	729
9. National publicity campaign	1,852
10. Newspapers and magazines	1,342
11. Radio	788
12. Scientific research—publish reports	729
13. Woman's Christian Temperance Union	311
14. Slogans	528
15. Posters	130
16. Other or variations of above: Start a prohibition magazine; annual "Antiliquor day"; "Prohibition day"; "National temperance day"; pledge auto drivers; insurance company pamphlets on evils of alcohol; popular songs; omit moral and religious aspects; organize "Old Glory clubs"; cartoon, drama, and novel contests; scholarships; Young Men's Christian Association; Boy Scouts; do away with private dry organizations; good crook stories; tell women that use of liquor impairs their personal appearance; postage stamp with prohibition slogan; national dry workers' council; enlist aid of telegraph companies to refuse rum-runners' messages	305
VI. Procedure for enforcing	12,812
A. Enforcement officers	6,164
1. Larger appropriations and forces	1,004
2. Better type of men	1,646
3. Civil-service appointment	617
4. Drafted by President	124
5. Frequent shifting of fields	184
6. Higher pay	584
7. More raids	169
8. Nondrinkers	507
9. Publish names of personnel	60
10. Rewards for convictions	496
11. Rewards advertised	75
12. Recommended by citizens	56
13. Recommended by clubs	9
14. Recommended by Woman's Christian Temperance Union	18
15. Special training	229
16. Other or variations of above: Use adequate check-up system; only American-born officers; bond all officers; Federal police officers; World War veterans; regular reports by officers; clean up Washington, D. C.; discontinue snooping methods	386
B. Trial	1,230
1. Bondsmen—abolish	100
2. No jury	111
3. Pleading—abolish	65
4. Prohibition cases—precedence	49
5. Search warrants not necessary	385
6. Speedy trial	401
7. Other or variations of above: Only Federal courts; jurors from other counties; more women on juries	119
C. General	5,418
1. Arrest rich as well as poor	623
2. Elect drys to office	623
3. Life record of citizens	113
4. Listing of seizures	33
5. Oath of allegiance	220
6. Pledge officers	297
7. Politics out of prohibition, take	619
8. Police responsible for beats	179
9. Presidential proclamation	162
10. President and Cabinet in favor of law	100
11. Protestant administration	25
12. Recall of judges for nonenforcement	178
13. Reward for informers	1,293
14. Search airports	40
15. Select public officials pledged to law	354
16. Other or variations of above: Let President call governors in conference and governors appoint committees to study enforcement; fingerprint offenders; medal for model commissioner; substitutes for saloons; censor theaters; search automobiles and trucks	430

	Number of persons suggesting
VII. Penalties	15,520
A. Consumer	2,690
1. Equal punishment with seller	1,588
2. Fine	145
3. Intoxicated drivers—revoke license	241
4. Jail sentence	268
5. Jail sentence intoxicated drivers	127
6. Tell source—compel consumer to	299
7. Other or variations of above: Capital punishment for consumer and posterity to fourth generation; who's who consumers and blacklist offenders; flood country with poison liquor to scare people	22
B. Violators in general	12,830
1. Capital punishment	187
2. Convict gangs	87
3. Confiscate property	815
4. Close distributing centers	117
5. Disfranchise	477
6. Deport alien offenders	1,320
7. Fine	568
8. Jail sentence—all convictions	2,122
9. Jail sentence—aiding	326
10. Jail sentence and fine	872
11. Jail sentence and hard labor	505
12. Jail sentence—presence at place	89
13. Life imprisonment	188
14. Moral punishment—ostracize	152
15. Padlock	252
16. Penal farm	191
17. Quarantine	48
18. Publicity for violators	297
19. Reformatory for minors	52
20. Torture	60
21. Whipping	73
22. Women—punish	173
23. More severe penalties	1,856
24. Graduated penalties	1,241
25. No pardon or parole	490
26. Other or variations of above: Brand violators; destroy violators' equipment; extend Baumes law; Federal prisons for bootleggers; no passports for violators; also deport citizens for violation; deport bootleggers; train dogs to catch bootleggers; take children from convict mothers; sink ships carrying bootleg liquor; tatoo violators; if buyer dies, send bootlegger to electric chair; compel bootlegger to go to church every Sunday; fine enough to cover reward; deport those who speak against prohibition; forbid publication of violation; censor wet press; put violators in rogues galleries	272
VIII. Indirect and general	904
1. Abolish poverty	29
2. Christianize the nation	161
3. Deport all aliens	71
4. Pledge all people	300
5. Stricter immigration laws	164
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THIRTY-TWO SEPARATE ELEMENTS OF THE PRIZE-WINNING PLAN

GENERAL PRINCIPLES

1. Energetically push one plan to a definite conclusion.

2. Strictly observe the individual's personal rights in enforcing the law.

3. Show no leniency to the individual who enriches himself by willful disobedience of law, no matter what his political, social, or financial standing.

4–5. "Let reverence for the laws become the political religion of the Nation"; and expect presidential leadership.

6–7. Recognize that sources of illegal liquor are clearly determinable; fit the treatment of each district to local conditions.

PUBLICITY AND FACT BASES FOR PUBLICITY

8–9. Require agencies of enforcement to keep the public fully informed as to their policies and aims; and to conduct themselves so as to obtain and keep the respect of all classes.

10–15. Secure from each district a detailed account of all sources of its illegal liquor supply; require district officers to formulate a plan for suppressing these sources; require graphic exhibits to show the movement into consumption of all liquids containing alcohol from each source; have these statistics collected monthly to show what has been accomplished; require local publication of local sources for both the local and central authorities; and publish monthly statistics to enable law-

enforcement committees to check their correctness and the accomplishments of enforcing agencies.

NONPOLITICAL INTERFERENCE

16. Expect the President to inform his subordinates, especially prohibition administrators, that patronage and political interference tending to influence the acts of the administrator in controlling the permissive phase must not be tolerated.

CONTROL OF GOVERNMENT PERMITS TO HANDLE ALCOHOL

17. Investigate applications for permits to handle alcohol as banks investigate when extending loan privileges, i. e., go into the business experience of applicants, their moral, social, and financial standing, the probability of a legitimate market for their goods, the soundness of the organization.

18–20. Require permittees to promise to inform the Government in writing as to the time and place of manufacture, so as to permit official supervision; automatically cancel permits where notification is not properly given, and give only temporary permits not longer than six months, until the applicant has proved himself responsible and legitimate.

21–22. Restrict permits solely to legitimate and responsible individuals and eradicate present illegitimate holders.

DECENTRALIZE ADMINISTRATION

23–24. Hold the local administrator responsible for issuing permits and revoking in cases of legitimate handling; and have the Federal Government recognize that in practice it can not become sufficiently familiar with local conditions to allow it to pass intelligently upon applications for permits.

25–28. Require all permittees to keep a strict accounting of their manufacture and distribution of industrial alcohol; strictly supervise manufacturing and distributing; administer or legislate the independent denaturing enterprise out of existence, on the ground that it has no economic place in business; and by administration or new legislation require manufacturers to show the distribution of their products, so that local administrators can trace these products to a legitimate dealer.

LOCATE AND STOP STILLS AND OTHER SOURCES

29. Apply similar principles of investigation, careful planning, supervision, publicity, and rigid enforcement to four other sources—wine, whisky, beer, and stills.

STOP SMUGGLING

30–31. Continue unceasing vigilance and patrol by the Coast Guard against smuggling and require closer cooperation among Coast Guard, customs forces, and prohibition forces.

DESTROY THE DEMAND

32. In a word, so raise the cost of the product that it will exceed the capacity of the consumer to pay, and thus destroy the demand.

THE WINNING PLAN BY MAJ. CHESTER P. MILLS[1]

Any plan logically carried out and energetically pushed to a definite conclusion is better than no plan at all. Unfortunately, except for the Coast Guard, the Federal agencies charged with enforcement have never adopted any one plan and carried it through.

There is no necessity for, nor can there be tolerated any violation of an individual's personal rights in enforcing the law, but there can be no leniency shown the individual regardless of his political, social, or financial standing who enriches himself by willful disobedience of law.

The agencies of enforcement must keep the public fully informed as to their policies and aims and so conduct themselves as to obtain and keep the respect of all classes.

THE VOLSTEAD ACT

The Volstead Act was well conceived and well written. Its provisions are capable of enforcement with few if any legislative changes.

The governmental agencies charged with carrying out the provisions of the act were not well organized originally and had little conception as to the scope of the work necessitated and the responsibility placed upon them. To this failure may be attributed most of the difficulty now being encountered in proper enforcement.

The act authorized a continuation of the use of commercial alcohol, redefining the statutes then in force.

Commercial alcohol was again divided into two classes, (1) completely denatured alcohol considered poisonous and not capable of redistillation, (2) specially denatured alcohol rendered unpalatable and unfit to drink but suitable for manufacture into many articles and capable of redistillation.

Manufacture of grain alcohol and its conversion into completely denatured and specially denatured alcohol; whisky for medicinal purposes and manufactured into tonics; wine for religious use and manufactured into vinegar and tonics; the manufacture of beer—all were to be controlled by permits or privileges issued to reliable persons by the Government.

[1] Major Mills was prohibition administrator for the metropolitan district of New York from 1925 to 1927, which fact was not known to the committee of award until they read the public announcements December 26.

In the rush to put the provisions of the act into effect these privileges were granted without proper caution; result, there are still large numbers of such permits in the hands of lawbreakers.

There is no necessity for, nor can there be tolerated, any violation of an individual's personal rights in enforcing the law, but there can be no leniency shown the individual regardless of his political, social, or financial standing who enriches himself by willful disobedience of law.

The agencies of enforcement must keep the public fully informed as to their policies and aims and so conduct themselves as to obtain and keep the respect of all classes.

OUTLINE OF PLAN

With the above in mind I submit a plan to make the eighteenth amendment effective and will discuss this plan under four headings: (1) Permissive, (2) enforcement, (3) political, (4) detailed method of controlling the diversion of industrial alcohol.

I. PERMISSIVE

The issuance of permits is a privilege conferred upon individuals or corporations by the Federal Government and it is not only the duty but the right of the Government to inquire thoroughly into the reliability of the individuals or corporations asking this privilege.

This inquiry should be conducted along lines similar to that conducted by a bank when extending loan privileges. Past business experience of the persons, their moral, social, and financial standing, the probability of a legitimate market for their goods, the soundness of their organization, must be thoroughly determined.

In addition, before a permit is issued to any person who desires to manufacture from liquids containing alcohol, there should be obtained a consent from him providing that he will, in writing, inform the Government through its local administrator the time and place where he proposes to manufacture. This notification must be in sufficient time to allow the local Federal administrator to send representatives to supervise the manufacture. Failure on the part of the permittee to give this notification should automatically stop future withdrawals.

Permits when issued should be temporary, not longer than six months' duration, so that local administrators may have further opportunity to determine the legitimacy of the business proposed and the responsibility of the individuals concerned. If such time proves the applicant responsible and legitimate, then a permanent permit may be issued.

The control of the permissive phase is a most important factor. If the issuance of permits is in future restricted solely to legitimate and responsible individuals, gradually the present illegitimate holders of Government permits can be eradicated.

LOCAL ADMINISTRATION

Local conditions make it imperative that the local administrator be responsible for the issuance of permits and for their revocation in case of illegitimate handling. It is impracticable for the central Government to become sufficiently familiar with local conditions to allow it to intelligently pass upon applications for permits.

II. ENFORCEMENT

Enforcement logically divides itself into two groups, (1) imports and (2) domestic supply.

1. After a bad start the Coast Guard has proved that the importation of alcoholic beverages can be suppressed. Statistics show that under 2 per cent of the liquor consumed is imported. I do not mean that this traffic has been eliminated. There are numerous instances along our borders and in the waters of Florida where importation exists. It can be overcome, as the Coast Guard has demonstrated, by unceasing vigilance and patrol.

Closer cooperation between the Coast Guard, customs, and prohibition forces is essential to eradicate this smuggling. The improvement in the last few years has been so marked that the policy of operation now exercised by the Coast Guard has vindicated itself and should be continued.

2. Domestic enforcement resolves itself into the suppression of stills and of diversion under permits. This domestic supply is the source of better than 98 per cent of liquor consumed, and is therefore the essential factor to control.

For control the country is organized into prohibition districts conforming to the judicial districts of the United States. This zoning is satisfactory and creates an organization capable of administration.

LOCAL SOURCES DETERMINABLE

Local conditions in each district vary. In one the supply of illegal liquor may be entirely derived from stills; in another the great source of supply may be diversion under cover of permits. In each district the source of supply of illegal liquor is clearly determinable. The plan of enforcement should recognize this and treat local conditions so as to insure the suppression of local sources.

The central Federal agency charged with enforcement should secure from each district a detailed account of the sources of illegal liquor supply for that district. It should have each district formulate a plan for the suppression of these sources. Statistics should be prepared for each district showing graphically and by figures the move-

ment into consumption of all liquids containing alcohol from each of these sources. These statistics corrected monthly should show what has been accomplished toward control of each source.

LOCAL PUBLICITY

An essential is that the sources for each district be publicly made known by the central authorities and by the local administrators; this publicity must be as extensive as possible. In addition, the monthly statistics compiled must be given the same publicity so that various organizations now existing, such as the law enforcement committees, the Anti-Saloon League, and others interested in the law, can check their correctness and the accomplishments of the enforcing agencies.

III. POLITICAL

Lincoln said, "Let reverence for the laws become the political religion of the Nation." Let the President proclaim himself on the subject.

Let him also inform his subordinates, the prohibition administrators, that patronage and political interference tending to influence the acts of the administrator in controlling the permissive phase must not be tolerated. Such political interference is one of the serious handicaps to the effective control of the permissive phase.

IV. DETAILED METHOD OF CONTROLLING DIVERSION OF INDUSTRIAL ALCOHOL

To more clearly define the above plan and to bring out its effectiveness, I will be concrete. The second Federal prohibition district comprises the southern and eastern judicial districts of New York State. The sources for this district are clearly defined as follows: Alcohol, whisky, wine, beer, and stills.

With respect to alcohol, we have to deal with (1) alcohol manufactured by distilleries and denatured at the distillery, (2) alcohol denatured at independent denaturing plants, (3) denatured alcohol diverted by organizations holding permits to use it for manufacture.

Diversions under the first class are comparatively small. The large distilleries which manufacture grain alcohol are, in the main, responsible corporations, highly financed and owning large quantities of valuable real estate. Their business is profitable and clearly defined. Their loss in case they are detected violating the law is so tremendous that it is a great deterrent and nearly insures ligitimacy. Strict supervision should be kept over those distilleries and a strict accounting kept of their manufacture and distribution of the manufactured product.

INDEPENDENT DENATURING PLANTS

The independent denaturing plant has no economic place in business, and here there may be necessity for legislative change in the Volstead Act. If a Treasury Department regulation can not eliminate the independent denaturing plant, then this result should be secured by legislative action.

The independent denaturing plant can secure grain alcohol from one source only and that is the distilleries authorized to manufacture grain alcohol. The independent denaturing plant has only two outlets for its manufactured products.

Completely denatured alcohol that it manufactures may be sold without permit, but is incapable of redistillation and absolutely unfit for human consumption. The present laws requiring this product to be labeled as "poison" are drastic enough to practically insure its legitimate use. The second outlet of the independent plants is supplying permit holders (manufacturers of perfumes, etc.) with specially denatured alcohol.

In both outlets the independent denaturing plant comes into direct competition with the distillery from which it purchases its initial supply of grain alcohol. These distilleries are required to maintain denaturing plants. It is a fact that the distilleries will not as a rule sell grain alcohol to a competitor at a price that will enable the competitor (the independent denaturing plant) to manufacture and compete with them. The independent denaturing plant has no economic reason for existence. Since the independent plant can not usually compete for legitimate business it is often driven to make a living by delivering unlawful supplies to the bootlegger.

DIVERSION VIA "COVER HOUSES"

We now come to the very serious evil of diversion under cover of permits authorizing firms to manufacture from specially denatured alcohol.

The principal method of diversion may be illustrated by an example. A perfume manufacturer as a permit holder receives specially denatured alcohol, for whose use he must account to the Government in records of perfume manufactured and on hand or shipped out.

The crooked permit holder pretends to ship his manufactured product to a wholesaler known as a "cover house." The wholesaler receipts for perfume but actually receives or diverts specially denatured alcohol for the bootlegger.

To disguise the transaction the "cover house" receives from the permit holder invoices and in many cases bills of lading. It acknowledges these invoices and even pays for them as well as acknowledging the bills of lading.

If the courts will not sustain the Government in requiring manufacturers who use industrial alcohol to show such disposition of their products as to enable the local administrator to trace these products to a legitimate dealer, then we need another legislative change.

However, I believe that strict supervision of the manufacturing activities of these permit holders (manufacturers using industrial alcohol) and the requirement that they notify the local administrator in sufficient time to enable him to supervise manufacture, will practically eliminate their opportunities to divert specially denatured alcohol to the bootlegger. The finished manufactured product (perfumes, etc.) is nearly incapable of redistillation and is not extensively used by the bootlegger.

In March, 1926, the withdrawals by such permit holders in the second Federal district were 660,000 gallons of specifically denatured alcohol a month. By unceasing vigilance and supervision of the activities of these permittees their number was materially decreased and this volume was reduced within a year to approximately 351,000 gallons a month, a reduction of 309,000 gallons a month, representing alcohol previously diverted into illegal channels. The remaining 351,000 gallons a month does not represent the legitimate use of this class of alcohol for the district, but it does show what can be accomplished by systematic supervision.

In March, 1926, the cost of this specially denatured alcohol to the bootlegger was approximately $1.10 a gallon. By June, 1927, the cost of this same class of alcohol to the bootlegger had risen to approximately $5.20 a gallon. As the source was suppressed, the cost of the product to the bootlegger rose.

It is not unwarranted to state that as the use of this alcohol approaches legitimate consumption its cost to the bootlegger will rise to such an extent as to make it unprofitable for him to operate, and when this point is reached the solution of alcohol diversion will also be reached.

The conditions of the Durrant prize contest limiting the words to 2,000 forbid further examples. I selected the hardest and most difficult source of diversion to control alcohol, but each of the other sources—wine, whisky, beer, and stills—may be as clearly defined and the method of control similarly illustrated.

This plan is predicated on the sound economic theory that when the cost of the product exceeds the capacity of the consumer to pay, the demand ceases.

Therefore this is the quickest and most economical way of suppressing the bootlegger and speakeasy.

WINNING HIGH-SCHOOL PLAN

By Malcolm D. Almack[1]

Three essentials are necessary to improve the effectiveness of the prohibition act. They are (1) Better knowledge of the law, (2) greater respect for the law, and (3) better administration of the law.

People must know what a law requires before they can obey it. Every day some well-meaning person is taken into court charged with breaking the traffic law. His excuse often is, "I didn't know I was violating the law. I don't want to do it. Why doesn't some one tell me what the law is?"

Many people do not know the exact provisions of the prohibition law. This statement can be tested by asking your neighbor a few simple questions such as—

"Does a citizen have the right, under the law, to make small quantities of liquor at home for his own use?

"Does he have the right to offer such liquor to his friends in his own home?

"How much alcohol must be present in drink to make it prohibitive?

"What is the penalty for violating the State law? The national law?"

Citizens need to know the law to know their own duty in its enforcement. You see some one serving wine. Is he violating the law? Should you report him? How can you tell what your duty is if you do not know the law?

Knowledge of the law keeps many people from violating it. As long as they are ignorant of the law, they keep their consciences quiet by saying, "I don't know whether this is wrong or not." As soon as they know positively that what they are doing is wrong, they usually quit, because they can not bear the idea of knowingly being a criminal.

The remedy for ignorance is education. The first step in this plan is to have the text of the law published in the newspapers, to have it explained over the radio, and to publish a little bulletin which would go to every citizen telling what the law is. These bulletins should be published by the Government, and distributed through churches, schools, service clubs, newspapers, and the patriotic and fraternal societies.

The law should also be taught in the schools. This can be done in classes in history and civics. The topic could be reported on in civic leagues, class meetings, and assemblies. A year's campaign would

[1] Junior, 15 years old, in Palo Alto Union High School, Palo Alto, Calif.

make everyone acquainted with the law. This might be a part of a larger campaign to teach people the new laws which affect their welfare closely.

Knowledge of the law is not enough to insure its obedience. Therefore, the plan includes a method of creating respect for the prohibition measure and for laws in general.

People who do not obey laws seldom think how serious for themselves and for others their attitude is. If everyone took the notion that he would obey a law or not, just as he pleased, this country would soon be destroyed, and there would be no freedom or security for anyone. No man's life or property would be safe, and civilization would perish.

To build up respect for law requires (1) an understanding of the reasons for the law, (2) a spirit of loyalty and good sportsmanship, and (3) strict enforcement.

The second step in the plan is to teach the reasons back of the prohibition act. From the history, they can be led to see that liquor has always been a bad thing. It has been mixed up with the slave trade, with crime, poverty, disease, and everything that is injurious to men, women, and children. They can see that the liquor business has always defied regulation, and that the best thing is to put an end to it altogether.

People should be taught under this plan that prohibition is sound economic policy, because it prevents waste, makes labor more efficient, releases capital for productive enterprise, reduces the cost of government, and adds to savings. Money spent for liquor can not be spent for the necessities of life.

This plan includes teaching that prohibition is good for the health. It makes for longer life, prevents sickness, and insures better nourished and healthier children.

Prohibition is good socially. It reduces the worst kind of crime, decreases poverty, prevents accidents, and improves character.

In order to have facts to teach people, the third step in this plan is to provide a research department as a part of the enforcement bureau.

The means of teaching the facts are the same as are used in teaching the law—publications, radio, school instruction, and speeches.

Every State in the Union has a law requiring that the harmful effects of alcohol be taught in the schools. To carry out the spirit of these laws it is necessary to teach the beneficial effects of prohibition.

The economic values in prohibition should be taught in courses in history, civics, economics, and social problems. The health benefits should be taught in courses in physiology, physical education, biology, chemistry, home economics, business, and general science. The history of the movement should be taught as a part of regular American history.

The fourth step in the plan is to build up such a spirit among the people as will lead them to obey and support the law. This is like good sportsmanship and the spirit of fair play. In our school we have no long list of rules, no jail, no fines, and no punishment, because they are unnecessary. The spirit is to do right, stand by the principal and the teachers, and protect the good name of the school. People will respond to an appeal to loyalty and to honor of the country.

The method is the same as is used by an employer, an Army officer, or a school principal in building up what is called morale.

Particularly should leaders be enlisted. The young men and women in the colleges, normal schools, high schools, and commercial schools favor better conditions. The enforcement of prohibition will further advance America as an example to other nations. Intelligent men and women will join in a great movement for obedience to the laws of the land.

They can be appealed to through schools, newspapers, and magazines, radio, sermons, lectures, moving pictures, and by all means that reach the feelings and awaken the spirit of idealism.

Nothing is better than example in building morale. If the best class of people would band together and agree to observe the law; if they would insist upon others observing the law, their example would bring others into line. People who have any self-respect would refuse to patronize the bootlegger or have anything to do with those who do patronize him. Real law is the sentiment and justice of the people in action. Their awakening is a part of the program.

The fifth step is to be sure the enforcing officers are well organized and capable. The director should be a real leader and a friend of prohibition. The rank and file of the officers should be recruited largely from among young people. Unless unavoidable, no one should be accepted who has ever been connected with the liquor business. The officers should obtain their appointments through the director and not through Congressmen. They should pass a civil-service examination sufficiently strict to guarantee good health, at least average intelligence, and sound character.

Before entering upon their duties, they should take a special training course. This may be for only a month or two, somewhat like the summer camps of the National Guard. At these camps they would be taught the law, how to gather evidence, how to present evidence, and, in general, how to enforce the law.

Another purpose served by this training school would be to build up morale. The best recruits could be selected and given further training for promotion. The supervisors should also watch over the welfare of the men, and the honor of the force should be developed as it has been among the Canadian mounted police and State troops.

The sixth step in this plan is to improve the courts. While little can be done to change the system, an attempt can be made to specialize the duties and increase the number of judges, as was recently done under an amendment to the constitution of California. The people can be urged to cast their votes for judges who will punish violators of the law.

The seventh step in the plan is to try to induce all States to supplement the Federal prohibition act by State enforcement acts. The State bar associations, the American Legion, and all patriotic societies should be requested to lead in this movement.

This program for the improvement of the enforcement of the national prohibition act can be summarized under seven points as follows:

"1. Teach what the law is.

"2. Convince people that it is a good thing and persuade them to support it.

"3. Provide a research division to study the effect and administration of the law.

"4. Lead people to cooperate in the enforcement of the law.

"5. Provide an efficient and well-organized body of enforcement officers.

"6. Improve the courts through specializing duties, adding to the number of judges, and electing capable and honest persons.

"7. Adopt supplementary enforcing legislation in all the States."

The results will not only be better enforcement of prohibition, but greater respect for and obedience to all laws.

A Close Competitor for the High-School Prize

By Charles Brown, Pawhuska, Okla.

The plan which I have drafted may not prove a panacea for all the evils associated with prohibition and its enforcement, but, if it were followed consistently, I believe that within a few years at the most America would be so dry that only an insignificant number would be able to find fault with the prohibition régime. The plan does not violate any constitutional or traditional rights; it is efficacious and simple with no radical changes from the present method; it will simplify somewhat the intricate order of to-day; and it will meet with the approval of a majority of law-abiding citizens.

As I see it, there are three vantage points from which to start improvement on the existing order of prohibition—(1) with the enforcement service and the activities of that organization by shifting the authority, curtailing the sources, and securing cooperation between State and national agents; (2) with the mode of judicial proceedings; and (3) with the American citizens themselves.

By the provisions of a reorganization law enacted March 3, 1927, many political evils due to corruption in the Prohibition Unit and to interdepartmental friction were noticeably decreased. The most important change inaugurated was the placing of enforcement offices on the civil-service competitive-examination basis. Now that the executive positions have ceased to be "political plunder" much of the graft and inefficiency which characterized the first eight years of prohibition have been eliminated, and the advantages growing out of this will become increasingly evident.

The second important change included the establishment of a Prohibition Unit as an entity, separating it from the Bureau of Internal Revenue and centralizing full authority in the Assistant Secretary of the Treasury. It became his duty to coordinate the activities of the Bureau of Prohibition, the Bureau of Customs, and the Coast Guard, the latter two branches being charged with certain duties in connection with the enforcement of prohibition laws in addition to the work for which they were primarily intended.

With the organization of the 48 States into 22 districts corresponding with the Federal judicial areas and with the changes already mentioned, enforcement was expected to work more effectively. However, though it is a little early to judge accurately the success of the arrangement, the plan apparently has not improved conditions materially. The chief reason for this failure is that the work of prohibition enforcement has been placed in the wrong department. The intrusting to the Treasury Department the problem of enforcing liquor laws is a survival of the former relationship of the Government to the legalized liquor business. Now the Government is interested in suppressing the manufacture and sale of liquors, and the problem is clearly a matter for some other department. Then, too, the Treasury Department has so many bureaus that the departmental heads consider the work of the Prohibition Unit but one of their many duties, and they make no particular effort to crusade vigorously in the interest of any one of these.

The situation in America has reached the stage where disregard and defiance of liquor regulations have led to increased flouting of other criminal laws, and clearly it is time to try stronger measures. Never will prohibition be enforced in the United States by the lackadaisical methods that men who do not believe in it have had adopted in their departments. If the violators ever get such a handling as Hays gave the robbers of post offices, prohibition will be as well enforced and the

principle as thoroughly respected as any other law. The militant mind and soldierly efficiency are needed to curb liquor law violations. Therefore, the best remedy for the evils under prohibition is to transfer the unit bodily to the Department of War, where these attributes flourish in abundance.

To delegate to the War Department the problem of handling the liquor situation is not an impractical suggestion; it is a plausible solution to the problem. On June 19, 1923, President Coolidge signed an Executive order transferring the administration of the national prohibition act in the Virgin Islands from the Secretary of the Treasury to the Secretary of the Navy, and evidently there could be no legitimate opposition to shifting the entire burden of prohibition administration to the War Department, which has an organization well adapted for enforcing the Volstead Act and which could easily work toward such a goal without neglecting its ordinary duties.

If a bill combining the features of the March 3, 1927, enactment and the removal of the Prohibition Unit from the Treasury Department to the War Department were passed, it would not necessitate any addition to the personnel of the enforcement service, but, on the other hand, would subtract from it by utilizing the United States Army. The bill would simply place responsible authority in the hands of those best fitted to have it and would give prohibition execution for the first time the advantages of properly geared machinery.

The second feature of the plan which I have to offer is to shut off the sources of supply. Much of the liquor retailed in the United States is smuggled across the Canadian and Mexican borders, while other contraband is brought to American shores via small boats from Cuba and the Canadian and Mexican coasts.

The first practice could be checked by establishing a border patrol which not only could guard against smuggling liquor but also against bringing in dutiable goods without regard for the tariff law and which could work in conjunction with the Department of Labor to apprehend aliens trying to enter the country in violation of immigration restrictions. Such an organization could be formed easily by the War Department, and the revenue gained would pay in part for the cost of the patrol.

Little can be done to prevent smuggling on the various "rum rows" of the coast except to increase the personnel, equipment, and powers of the Coast Guard. If this organization is to do effective work, it must be given the necessary number of men and boats to place blockades about the areas where smuggling is most rife. Airplanes would prove effective in guarding the coast, and a number of these craft should be added to the equipment of the organization.

In connection with the closing of illegitimate channels, it would be an excellent plan for the dry-law agents to place more emphasis on getting the big bootlegger rather than running from place to place in a futile attempt to nab the thousands of small offenders in America. Hundreds of liquor cases which now crowd the dockets can have little influence or effect on stopping the illicit liquor trade, but if the men who supply the demand were captured and speedily punished, the prohibition trouble would be reduced to a minimum.

My third point under the enforcement program is to get the State and National officers to have better cooperation and understanding of each other. It would be advisable for the national prohibition leaders, or, better still, the President, to call a conference of the heads of State enforcement organizations and the Federal officials to set limits for national and local enforcement and to discuss in general the prohibition situation. They could come to some understanding, and perhaps some one might be able to suggest a policy of cooperation. If no better program could be devised, they might decide that to the national authority would be delegated the task of drying up the sources of supply, and to the local agents would be turned over the work of checking the bootleggers in distributing the liquor. If this were done, the enforcement problem would be simplified somewhat. Also, there would be less duplication of endeavors.

In communities where local sentiment will not sustain a vigorous policy by sheriffs and county attorneys, the Federal enforcement agents should undertake the work of carrying out the dry laws by putting on more agents than in places where the State and municipal authorities are able to handle the situation.

The second phase of my general plan for prohibition enforcement, which is perhaps of even more importance than the reorganization of the machinery for carrying out the purposes of the eighteenth amendment, is the devising of a plan for securing more prompt and effective action in court cases involving violation of the Volstead law. One of the chief troubles with enforcement lies in the slowness and leniency of the courts in the prosecution of liquor cases. Enormous profits are made by violators who are financially able to fight legal proceedings, to secure bonds without the least difficulty, to protract cases unduly, and meanwhile to continue their practices. Bonds should increase in cost; trials should be more speedy; punishment should be more certain. Though the penalty is sufficiently severe, the maximum sentences are so rarely given that it has become necessary to raise the minimum judgment.

The solution of these difficulties is somewhat involved and difficult. To get the big bootlegger rather than the small offender, as I have recommended, would relieve the court congestion somewhat. The best solution to the problem, though it may be rather impractical due to the number of changes required, would be to establish a new class of Federal courts of police-court jurisdiction to relieve the district courts of prohibition enforcement cases.

An excellent way to limit the practice of letting bootleggers out on bond to continue their illicit business would be to do away with the professional bondsman by requiring him to schedule all his assets and liabilities and punishing him criminally if he should make false statements. This method would minimize his opportunities to accept bribes.

The third and final phase of prohibition enforcement, as I see it, is concerned with the American citizens themselves. The difficulty of enforcing an unpopular statute has been shown many times. A mere law-observance program will never make prohibition succeed if the people of the United States regard it as obnoxious. The results of the recent elections seemed to indicate that enforcement has become less distasteful. Therefore, it is an opportune time for the proponents of prohibition to begin anew a program of creating public sentiment or "moral suasion" to make people realize fully the good resulting from prohibition and the evil resulting from the use of alcohol. Law combined with education will stop the liquor traffic.

With the advent of prohibition many of the temperance societies which created popular sentiment against alcohol ceased to be active. When these organizations were most enthusiastic in their efforts, drinking declined, but now that they no longer fight strenuously for their principles, the use of intoxicants is increasing. These organizations should be reestablished and a nation-wide "war on booze" waged. The discoveries of recent research chemists showing irrefutably that alcoholic liquors have no essential medicinal qualities should be broadcast by all advertising agencies available—newspapers, magazines, radio, moving pictures, lectures. It has been shown, for example, that if the laboratory says "more vitamines" the demand for lettuce and cabbages increases. The demand for alcohol will decrease if the people are made acquainted with the fact that the scientist says "no alcohol."

In many schools the physiological results of alcohol are little stressed. The young people of to-day need scientific instruction along this line more than ever before, and the prohibitionists should see that such studies are resumed.

There is one group in particular to which "moral suasion," or perhaps more appropriately "mobilization of conscience," should be applied. It is composed of the wealthy pseudo fashionable who serve bootleg liquor in their homes. When it becomes bad form for the rich to partake of liquors openly and flagrantly, the vast majority of common people will cease to regard serving intoxicants as the correct thing. Education should control the dictates of fashion.

When all the difficulties which retarded the early work of enforcing the Volstead Act are considered, it is remarkable that so much progress has already been made, and if the threefold program which I have outlined were put into action the efficacy of the eighteenth amendment would become increasingly evident. The economic, social, physical, and mental benefits of prohibition would become correspondingly more familiar, and opposition would fall away until eventually most of it would come from the criminal class.

ANOTHER CLOSE COMPETITOR FOR THE HIGH SCHOOL PRIZE

By William Denmark, Senior High School, Springfield, Mo.

William Denmark, of the Senior High School, Springfield, Mo., was accredited by Principal J. D. Hall. His plan survived to the award committee and evoked its praise. Among its telling points were these:

In a large number of cases prohibition agents are men who have secured their appointments through political bosses who happen to be their friends or who are paying them for a political service by "getting them a job" as prohibition enforcement agents. At the present time the Prohibition Department is a dumping ground, as it were, for corrupt and petty politicians, ex-saloon keepers, and actual, if not convicted, criminals. Each prohibition chief, in order to keep his position, must acquiesce to the desired appointments of the political party in power. He is afraid to dismiss an inefficient or corrupt official who is befriended by big politicians. He can not with such a force hope to accomplish to any degree efficient enforcement.

Treaties with foreign nations must compose a part of effective enforcement. The treaty with Great Britain provides, in the main, that the United States will be allowed to board private vessels under the British flag (one hour) outside the limits of territorial waters for the purpose of inquiry and examination of the ship's papers.

Treaties with nations bordering on the United States are also necessary. The treaty with Canada in 1924 providing for the cooperation of both countries in an attempt to stop violation of smuggling laws was a great help, but treaties providing for greater efficiency must be enacted with both neighboring and distant countries.

The Department of Justice is one of the most deficient units in the enforcement of prohibition. At the present time "red tape" delays trials and protects the bootlegger.

The present inadequate punishment must be remedied. The judges must give jail sentences of maximum length instead of fines. It takes

a bootlegger only a short time to repay himself for this fine, but imprisonment will cause him to fear arrest, and so hinder greatly his operations.

Measures must be enacted so that an offender may be brought to trial speedily and his release on technicalities made much less likely. *

The lack of cooperation of State officials with Federal authorities is another evil that can be remedied. The burden of enforcement against the smaller violators must fall to the State and local authorities. Their offices when appointive should be placed under civil-service restrictions. State legislatures should provide in a large measure for State enforcement and cooperation with Federal workers.

Each locality should also demand rigid enforcement from its own authorities. The Federal authorities can not be expected to do all the local enforcement.

State courts should see that the punishments administered are of such proportions as to discourage further violations. Until the State and local officials do their share the Federal authorities are under a great handicap.

Congress must make larger appropriations for the Coast Guard in order for them to maintain a high standard of effectiveness.

The greatest difficulty is, of course, the attitude of the people. There is a nation-wide indifference and many times open opposition to prohibition enforcement. The big business men and community leaders often think nothing of having a "drink" at their public banquet or dinner. They must be made to understand that they are lawbreakers and are influencing many younger men to violate the law. * * *

They denounce the evils of liquor in the open saloon and yet do not hesitate to aid in bringing the same damnable stumbling block where it may cause the downfall of their sons and young acquaintances whom they wish to carry on their businesses.

They must be made to understand that the liberty which they value so highly can be made possible only by strictly obeying and upholding each and every law. The feeling of responsibility and the natural interest in something of their own doing will cause more interest and energetic cooperation than a legion of paid lecturers.

The next step is the changing of the attitude of college and high-school students. Their violations are usually because they want to do something that is forbidden, just as when they were younger they wanted the jam in the pantry. Discussions led by able and respected men in which they may be shown the effect of what they thought were only harmless escapades would have a great influence. If they are made to feel a responsibility because it is pointed out that those younger than they are looking to them to find out what they should and should not do, it will cause a marked effect immediately.

If from the first till the last, from childhood to manhood, constant stress is laid on law obedience, a great work will have been accomplished for the benefit of national prohibition and national integrity.

OTHER STEPS SUGGESTED BY HIGH SCHOOL CONTRIBUTORS

Develop substitutes for the saloon, like recreation centers, gymnasiums, etc.

Cut the "red tape" out of enforcement procedure.

Provide insurance for enforcement officers.

Have the President call a conference to straighten out conflicts between State and Federal enforcement groups.

Prevent bootleggers from receiving tips of raids over telephone and telegraph systems.

Establish psychopathic clinics for treating alcoholics and make treatment compulsory.

Special classes to train immigrants in our laws and the reasons back of them, especially prohibition law.

Have the best people make prohibition fashionable.

Limit the prescriptions druggists may fill for one individual; and provide more careful regulation of restrictions on medicine containing alcohol.

Allow only Government-made liquor for religious and sacramental purposes.

Abolish "bargain day" in courts which grant small fines to offenders pleading guilty.

Use air forces.

Appoint no person as enforcement officer who has a record of conviction under Volstead or State-enforcement acts.

Have offenders put at work while in jail and devote proceeds of their labor to support of their families.

Have schools for all offenders with trades to make them self-sustaining, and send all offenders there, whether rich or poor.

Have artists draw posters favoring prohibition.

Let District police training schools correct the lack of general efficiency in local police departments and have a higher police training school at Washington.

Develop a morale among our police force like that of the Northwest Mounted Police of Canada.

TELLING PHRASES FROM OTHER HIGH-SCHOOL PLANS

There is not enough unity of action between the police forces of State and Nation.

I. ROGERS (Tennessee).

Temperance by force has turned out a poor substitute for temperance by choice.

EVELYN WILSON (California).

Human nature will not allow the majority of people to cooperate in making the eighteenth amendment effective.

R. WILLIAMSON (Massachusetts).

Education is the greatest tool that a foreseeing God has given a starving-for-knowledge mankind.

J. W. GUIMOND (Massachusetts).

In every age there has been something that has stood between the people and true democracy. Rome had its Cæsars, France its Napoleon, and now the United States has the eighteenth amendment.

J. COLLINS (Maryland).

If any considerable number of people so far fail to see the value of a law that they are indifferent to enforcement, those who are in favor of the enactment must take active measures to win a working majority of such opponents to the support of this measure.

PERSIS KRIENBRING (California).

No law can be enforced perfectly.

Liquor traffic submits to no regulation.

Punish the worst offender, the buyer.

The people must want the law in order to have the local officers really try to enforce the law.

The law-breaking agency pays high salaries and the law-enforcing agency must pay high salaries to compete with it.

It has been said that slovenly preparation of cases by prosecutors has been a great factor in perverting justice.

Low salaries encourage organized crime to fight back against the Government by corrupting its trusted servants.

A modification of the prohibition laws would not aid the cause of temperance, but would be a partial surrender to the forces of crime.

A mere law-observance program will never make prohibition succeed if the people of the United States regard it as obnoxious.

In the long space of time allowed between his arrest and trial the accused can find many ways of thwarting justice.

With the advent of prohibition many of the temperance societies which created popular sentiment against alcohol ceased to be active.

Our jury system was undoubtedly an advance step when introduced, and, in spite of the fact that it has been beneficial, it has grown to be an evil.

Another factor that makes justice uncertain is our archaic criminal procedure, which admits of delay. Justice must not delay if it is to be sure.

Money spent for enforcement is an investment that will be richly repaid in the future by a great decrease in crime and by vastly increased prosperity.

One of the greatest mistakes made in the enforcement of prohibition is the appointment of people to offices connected with enforcement who are out of sympathy with the law.

A man who has enough ability, loyalty, bravery, and industry to be a good prohibition agent could get a much larger salary in more pleasant and much less dangerous work.

The present inadequate enforcement of the eighteenth amendment and the Volstead Act is not merely a disgrace to the Nation, it is also causing a growing disrespect for not only the eighteenth amendment but for all law and for the Constitution itself.

External force will never be effective alone.

R. D. WALROTH (New York).

Statistics, however, show a decrease in deaths from alcohol from pre-Volstead days.

F. A. SMITH (Connecticut).

Bootleg whisky can be found at almost all the social events of America's young men and women.

M. ROMAN (Pennsylvania).

The word "enforcement" is an unfortunate one because it arouses a certain amount of antagonism in many people.

BORGHILD BRAAFLAFT.

Justice must be meted out impartially regardless of the social standing of the violator or of any other consideration.

J. L. RANKIN (Louisiana).

If the newspapers praised the work of enforcing the prohibition law enough, the mass of the people would eventually become reconciled to the law.

R. VILLYARD (Texas).

Prohibition is young and like youth, it is weak and must be strengthened. Toward that end these suggestions are offered.

R. HAYES (Michigan).

Young women who would have been mortified to be found in an old-fashioned saloon now frequent the speakeasies and night clubs, flaunting themselves as if they were accomplishing a great feat.

W. MCCARTY (Michigan).

In most crimes the victim and the offender are at odds and the victim assists the police in every possible way, while in liquor violations they are accomplices and try to avoid police intervention.

J. B. HENDERSON (Massachusetts).

It should be remembered that this prohibition act and its origin did not occur in a day, a week, a year, or even a century, but was the culmination of American opinion molded in the mold of American ideals and economic interests.

F. W. ADAMS (Michigan).

Yet one may search and preach, study and investigate, and he will *find that* the cause upon which the ills revolve is the refusal of the people to cooperate with and treat the law of prohibition seriously.

A. ROBINSON (Michigan).

When we spend millions of dollars each year to hire policemen and other officers to enforce the laws, how is it that the laws are so unscrupulously disobeyed? There must be something wrong with our police force and courts.

SOCIOLOGY CLASS, ESCANABA HIGH SCHOOL (Michigan).

The prohibition enforcement problem is a problem of local cooperation. The Federal Government alone can not effectively enforce prohibition.

L. WELCH (Illinois).

The history of our country, and in fact the whole world, teaches us the important fact that when we want improvement in government the best way to secure lasting results is to teach the principles to youth.

B. ATWOOD (California).

In the town in which I live, a town of about 2,000 inhabitants, one can not get good whisky even with a doctor's prescription, and this situation is prevalent throughout the United States.

There are many who would begin making their own "booze" if the bootleggers were put out of business.

Human beings are much more easily led than driven.

Only a complete referendum can answer or tell what the people want done with the eighteenth amendment.

P. REILLY (New York).

Young people grow up without realizing the responsibility of obedience to law.

H. RAINE (Ohio).

Everyone knows who are violating the law in his vicinity and many would report them if they were encouraged to do so.

E. CARTER (Oklahoma).

It is true that dishonesty in a public servant can not be cured on a money basis but the scale of salaries of the prohibition agents, $1,800 to $2,300 a year, is so low as to invite irregularity.

L. GEORGE (Oregon).

It is my opinion that the public press has done more harm than any other agency in opposition to what the eighteenth amendment was supposed to accomplish.

G. U. RAPP (Pennsylvania).

It was the attempt to end the sale of liquor completely in short order that caused these private bootleggers and the breaking of the law.

W. MOLAR (Pennsylvania).

Neither moonshine nor bootlegger would exist commercially were it not for the consumer.

W. COX (Texas).

Finally, it is apparent that there is a shortage of special agents. The force is now inadequate.

H. LONG (Texas).

A plan to make this law effective must be favored by the majority of all the people of this country.

A. W. BRUNNER (Washington).

Pardons in some cases are beneficial, but their use should not become universal.

J. R. POPPE (New York).

Without the drinker there would be no bootlegger. Therefore the real key to the situation lies in convincing the consumer of his error.

H. M. AXTELL (Michigan).

The first known evidence of an effort to control liquor drinking was a law effected by a certain Chinese Emperor about 1116 B. C., who, deploring the evils attendant upon the presence of rum in the empire, decreed that all people partaking of it should be sentenced to instant death.

L. ROWE (New York).

The Chicago regiments of the National Guard were wont to parade with carnations in their guns. They failed utterly to cope with the situation. Scores of people were killed and nothing was accomplished. When, in accordance with President Cleveland's command, the Regular troops appeared on the scene a small boy said, "Them guys hain't got no flowers in their guns." Without a shot being fired the rioting ceased. They meant business, and the rioters knew it.

M. M. MCCULLOCH (Michigan).

There was a joke once which read thus:

"JIM. Our lights burned out on the way going home last night.

"DICK. What did you do?

"JIM. Oh, we just rode like fury, and the cops thought we were bootleggers."

Take that joke the way you will, but it would seem that the "cops" were in favor of the "bootleggers."

MR. DURANT'S TELEGRAMS ON W. R. HEARST'S PRIZE OFFER

January 3 W. R. Hearst telegraphed that he believed prohibition not only un-American but unenforceable and proposed to offer a prize of $25,000 for the "best plan for repealing the eighteenth amendment and substituting temperance for prohibition."

Mr. Durant answered as follows in a telegram to Mr. Hearst at San Simeon, Calif.:

First, let me congratulate you upon your prize offer of $25,000 for the best plan to repeal the eighteenth amendment.

Neither you nor any other giant publisher ever performed a more notable service than this contribution of yours to the question: Are the American people ready to give up and admit the failure of this, the greatest experiment ever undertaken by a free people?

Your prize contest furnishes the rallying point for those whe are ready to admit defeat and want the eighteenth amendment repealed.

My contest furnishes a rallying point for those who are not ready to admit defeat but want an honest attempt made to enforce the law.

You say that in offering a prize on how best to enforce the eighteenth amendment "Mr. Durant is really offering a prize on how best to put the Republican Party out of power."

It will be news to the Republican Party to learn that it will be put out of power by enforcing the highest law of the land—the Constitution.

The Republican Party, as a matter of fact, has just won an unprecedented political victory on a platform whose chief issue was enforcement of the eighteenth amendment.

The principal appeal of the Democratic candidate was his promise to use his high office to urge a relaxation of the liquor laws. Against that appeal millions of votes were massed by men and women determined to suffer no concession to the liquor traffic.

You say that you believe that there is "an enormous middle class, which probably is a majority class, who believe in temperance and believe in personal liberty and realize that temperance can be secured without prohibition, and never can be secured with prohibition."

In a disgraceful situation such as now confronts this great country of ours we have the right to ask of every intelligent citizen an answer to the following: "Are you for the bootlegger, the speakeasy, and law defiance; or are you for the Government, the Constitution, and law observance?" With respect to the above, there can be no "middle class."

It seems to me that the sentiment of the people on this question is expressed by the voting of Representatives they send to Congress, where the liquor laws must be modified, if at all.

Each succeeding Congress is drier than the last. Out of 96 Members of the Senate, 80 are dry. Of the 435 Members of the House, 329 are dry. Among the cities in the last election which turned from the frank liquor appeal of the Democratic candidate and gave their votes to Herbert Hoover, were Chicago, Philadelphia, Detroit, Baltimore, Pittsburgh, Los Angeles, Buffalo, and Cincinnati.

If the Republican Party was swept into power by its promise of law enforcement, how can it be "put out of power" by carrying out its pledge?

I can not believe that, pending repeal, you countenance nullification of part of the Constitution by nonobservance and nonenforcement, turning the country over to the organized bootleggers, hijackers, political corruptionists, and murder gangs now rampant.

I believe that great good will come out of the public interest and public discussion stimulated by your prize offer. In the strict sense of the word, the only possible "plan to repeal the eighteenth amendment" is already in existence, embedded in the Constitution of the United States.

Once an amendment to the Constitution has been solemnly enacted into law, it can only be repealed by a vote of two-thirds of each House of Congress, this vote to be ratified by the legislatures of 36 of the 48 States of the Union.

It is highly important to know what the people think. My contest brought out part of the answer. I am sure yours will bring more of it.

It is a striking fact that the eighteenth amendment was ratified by all but two States. No amendment to the Constitution ever had such a large vote in Congress, was ratified by so many State legislatures, or was ratified in so short a time. We have every reason to think that the American people meant business against the liquor evil and that they mean business still.

For the necessary changes in the enforcement laws we need facts, as President-elect Hoover says. Therefore, I have suggested a congressional committee to find out what is the matter with the working of our enforcement laws. I have offered to that committee the abundant material in our files, contributed by the 23,000 and odd contestants who wrote what they thought should be done. No doubt your contest will contribute a similar mine of material.

I hope that your great influence will be used to secure a congressional investigation.

I am no fanatical dry. I am for law enforcement. If we can't enforce this law, I will be with you for its repeal. But first I want an honest effort to induce the decent people to observe it and force the criminal class to obey it.

W. C. DURANT.

WAS HERBERT HOOVER RIGHT WHEN HE SAID PROHIBITION HAD HELPED MAKE US THE HAPPIEST AND MOST PROSPEROUS PEOPLE IN THE WORLD'S HISTORY?

To Mr. Hearst's lengthy telegraphed and widely published rejoinder that "all we held dear in our political system as well as in our individual independence has been sacrificed to a fetish (prohibition)," Mr. Durant replied by the following telegram January 3:

"The case for the abandonment of the eighteenth amendment will never be more effectively presented than in your message to me of January 2, published in the Hearst papers of January 3 and January 4. I only wish that your powerful pen and the great influence of your newspapers were arrayed, instead, on the side of liquor law enforcement.

"You offer a prize of $25,000 'for the best plan to repeal the eighteenth amendment and substitute in place of prohibition a more liberal and more American measure which will secure for the public more genuine temperance.' If, as a result of your prize contest, a plan having your approval is evolved and made a part of the Constitution and becomes a law you will, of course, expect that your law will be observed. Widespread violation of your law by a large percentage of the people would result in much confusion and disorder—exactly the condition which now concerns every intelligent, thoughtful citizen. I do not believe that a government can exist that does not enforce its laws, consequently, I am for law enforcement.

"Those who are opposed to prohibition have every right to agitate for the repeal of the amendment, just as every citizen has the inescapable obligation to obey that amendment and the laws for its enforcement, so long as it remains a part of the Constitution.

"I believe it is impossible to escape the logic of Herbert Hoover's statement in his acceptance speech:

"'Modification of the enforcement laws, which would permit that which the Constitution forbids, is nullification. This the American people will not countenance. Change in the Constitution can and must be brought about only by the straightforward methods provided in the Constitution itself.

"'There are those who do not believe in the purposes of several provisions of the Constitution. No one denies their right to seek to amend it. They are not subject to criticism for asserting that right. But the Republican Party does deny the right of anyone to seek to destroy the purposes of the Constitution by indirection.' * * *

"'Crime and disobedience of the law can not be permitted to break down the Constitution and laws of the United States.'

"It is idle to deny that, particularly on the part of the 'better classes,' there is to-day widespread disobedience of the liquor law as embodied in the Constitution. For that condition, I am ashamed to say, the business leaders of the country bear a heavy responsibility.

"Bootleg liquor has become the most widely advertised factor in the social life of men whose names are synonymous with success, wealth, and power in their communities. The contagion of their lawlessness spreads through the entire population. This means impairment of the carefully built safeguards of personal and property rights. Citizens who have the largest stake in law observance have taken the lead in law defiance.

"I believe that this is a phase that is already passing. I believe that our business leaders are ready to rally behind the leadership of Herbert Hoover for the law. I believe they are going to stop teaching criminals that the 'best people' obey the law when it suits them, and not otherwise.

"I am confident that Mr. Hoover is going to give this kind of leadership. I believe that, for the first time, we are going to see the Government proceed against the bootleg industry with a wholly honest and effective enforcement service in all departments whose duty it is to deal with the liquor evil. In other words, I think that the law is at last going to have a fair trial.

"I am unable to agree with you that prohibition is a failure as a temperance measure.

"I myself, as a manufacturer, know the vast difference in the efficiency of workmen since the eighteenth amendment. That efficiency has been passed on to them in the rewards of higher money wages. Nobody can measure the increase in happiness in American homes due to the abolition of the saloon and the legalized liquor traffic.

"The mass of the American people, who do not get into newspaper headlines, have become the most sober, contented, and prosperous people on earth. No less an authority than Herbert Hoover says that a good part of the country's prosperity is due to prohibition. In his speech to the Y. M. C. A. in Washington he said:

"'Our country is in the midst of an astonishing increase in wealth and of its wide diffusion among the whole people. The application of the many discoveries in the physical sciences, the increase in efficiency both in workers and executives, the elimination of industrial waste, and the advent of prohibition, have raised our standards of living and material comforts to a height unparalleled in our history and therefore the history of the world.'

"Mr. Hoover has been quoted as saying that 10 per cent of our national efficiency is due to prohibition. We have a national income of $90,000,000,000 a year. If prohibition is responsible for nine billions of this, it is hardly a 'failure.'

"Both of us desire a sober nation, since our prosperity and happiness depend fundamentally upon sobriety. While we differ concerning means of realizing that end, I am quite convinced that out of the discussions of the thousands of plans submitted in the Durant prize contest and the thousands that will unquestionably be entered in the Hearst contest, there will come a volume of information that will do more toward educating the people of the Nation on this great question than any other single campaign of which I have knowledge.

"W. C. DURANT."

CONSIDER EXISTING CONDITIONS

By L. H. Hampton, assistant chief counsel, Bureau of Prohibition

"Practicable: Capable of being put into practice, done, or accomplished—That is practicable which may be accomplished by available means."—(Webster's Collegiate Diction.)

To be practicable, any plan for the enforcement of the eighteenth amendment must consider existing conditions and must contemplate the means available for its execution; legislation proposed must be constitutional and reasonably hopeful of enactment; action and policy suggested must be lawful and reasonably possible of performance. To be effective, it must be practicable and also sufficiently comprehensive to provide the legislation, organization, appropriations, and policies necessary for its successful accomplishment.

On that basis the following suggestions, with their respective supporting reasons, are submitted as a practicable plan for the effective enforcement of the eighteenth amendment:

LEGISLATION

1. Retain existing enforcement legislation, except for certain amendments hereinafter suggested.

Reasons: No legislation could be devised more comprehensively describing and denouncing as crimes the various acts and activities incident to the unlawful manufacture of and traffic in intoxicating liquors, nor establishing a more complete system of control of the legitimate manufacture and use of such liquors, than as now provided by law.

2. Repeal that portion of section 25, Title II, of the national prohibition act, which forbids the issuance of a search warrant for a private dwelling "unless it is being used for the unlawful sale of intoxicating liquors."

Reason: The effect of the present provision has been to afford legal asylum for illicit distilling, manufacture of wine and beer, and storage of stocks of liquors for illegal sale. No similar special protection to criminal activities within a dwelling exists in relation to any other Federal offense. The requirement that "probable cause" be established for the issuance of search warrants in connection with other offenses always has been held a sufficient observance of the constitutional

guaranty against unreasonable searches. Illicit distillers and vendors of liquors have seized the advantage given by this provision and are using "private dwellings" for the operation of small stills and the storage of stocks of liquor, secure from search as long as they abstain from making sales within or directly from the "dwelling." Repeal of the portion of the section above suggested would permit search warrants to be issued for such places upon proof of circumstances, legally constituting "probable cause," coming to the knowledge of the investigating officer by means of his natural senses, as commonly practiced and upheld by the courts as to places other than dwellings.

3. Amend the first paragraph of section 29, Title II, of the national prohibition act to read as follows:

"Any person who manufactures, possesses, transports, or sells liquor in violation of this title shall for a first offense be fined not less than $100 nor more than $5,000 and be imprisoned not less than 60 days nor more than five years, and for a second or subsequent offense shall be fined not less than $250 nor more than $5,000 and be imprisoned not less than six months nor more than five years."

Reasons: (a) Possession and transportation are not as easily veiled in secrecy as manufacture and sale, but are necessary complements to the effectiveness of those offenses and deserve the same penalties. Enforcement has been hindered by the present provision fixing lighter penalties for the more easily detected offenses, which permits a general practice of dismissing charges of manufacture or sale in consideration of pleas of guilty to possession and transportation.

(b) Fixing a maximum penalty of $5,000 fine and five years imprisonment on first and subsequent convictions makes all offenses felonies and enables the courts to impose adequate punishment on first conviction in flagrant cases.

(c) Experience has demonstrated that penalties are not being imposed to adequately punish offenders and deter others from committing violations: Of 58,813 persons convicted for violation of Federal prohibition laws in the fiscal year ended June 30, 1928, only 28.5 per cent were sentenced to imprisonment, the average sentence being 120.7 days; 71.5 per cent were sentenced only to pay fines, averaging $120 each. The relation of penalties to enforcement conditions is easily demonstrated by comparison of known conditions with statistics showing percentage of violators imprisoned or fined, the average imprisonment, and average fine, in various Federal court districts for the last fiscal year:

	Per cent imprisoned	Average term (days)	Per cent fined	Average fine
New York: Southern district (New York City)	1.6	43.3	98.4	$26.03
Pennsylvania:				
Eastern district (Philadelphia)	28.9	88	71.1	124.75
Western district (Pittsburgh)	7.3	109.3	92.7	135.12
Indiana	69.8	77.1	30.2	117.16
Michigan: Eastern district (Detroit)	32.1	175.4	67.9	481.16
Colorado	67.5	159.7	32.5	225.72
Idaho	67.7	152	32.3	295.94
California:				
Northern district (San Francisco)	11.6	89	88.4	304.17
Southern district (Los Angeles)	22.1	104.5	77.9	276.26

Punishment consisting only of a fine, in any amount, does not deter violators; imprisonment does. Provision for minimum sentence and mandatory imprisonment on conviction would lessen the number of violators, relieve the courts of congested dockets, and aid effective enforcement.

ORGANIZATION

"1. Transfer the Bureau of Prohibition from the Treasury Department to the Department of Justice."

Reasons: (a) An error was made in committing the enforcement of national prohibition to an executive department which the public mind does not associate with law enforcement. The American people have traditional respect for established law-enforcing agencies and officers, but very generally have refused to accord that respect to agents of the Treasury; Department of Justice, including in its organization a bureau of investigation, popularly known as the secret service, United States marshals, and United States attorneys in every Federal judicial district, has long been established in the law and in the public mind as the law-enforcing department of the Federal Government. As such, it has the support of a respectful public sentiment. Transferring enforcement of the prohibition law to that department will gain the advantage of that support to efforts for effective enforcement.

(b) The present arrangement divides authority and responsibility for enforcement between two departments, neither being able to require the other to give effective cooperation: Prohibition officers make investigations and report violations to United States attorneys, but can not compel the institution of prosecutions. In several districts where United States attorneys are negative to enforcement this situation results in friction and "buck-passing" instead of coordinated effort. Placing entire authority and responsibility in one department will remedy this condition.

(c) In the enforcement organization of the Treasury Department there has been lack of competent and authoritative legal counsel and direction of enforcement officers. Attorneys there employed are chiefly engaged in permit matters, and in any event can not give authoritative legal direction. The absence of this essential factor in law enforcement resulted in so many violations of the constitutional rights of citizens by unlawful searches and seizures that Congress imposed heavy penalties on agents for such excesses. Innumerable cases reported to United States Attorneys for prosecution are rejected on the ground of insufficient competent evidence. Hundreds of cases have been dismissed upon suppression of evidence illegally obtained. Authoritative legal direction of investigating officers will be provided by committing entire responsibility for enforcement to the Department of Justice.

"2. Separate the enforcement of the criminal provisions of the law from the administration of the permit system."

Reasons: Enforcement of the national prohibition act requires two distinct types of official functions: (a) Enforcement of its criminal provisions, and (b) administration of its permit system. These functions are distinctly different in the service and policy required. A man who has the type of ability and temperament to judiciously administer the permit provisions of the law ordinarily does not possess the genius for investigation and vigor of action essential for successful direction of criminal investigations. Experience has demonstrated that officers having supervision of both functions and who have undertaken vigorous enforcement of the criminal provisions have caused serious complaints of their arbitrary or injudicious actions in connection with matters arising under the "permissive" provisions; but the general public feels little direct concern in the permit system and believes the vigorous, effective enforcement of the law against criminals to be paramount. The result is that where we have administration satisfactory to the business and industrial concerns affected by the permit system conditions are wholly unsatisfactory to the general public. As long as these two incongruous functions are committed to one organization, consideration for legitimate business interests concerned in the administration of the permit system will continue to be a major factor in the selection and removal of supervising officials, to the disadvantage of effective enforcement of the criminal provisions of the law.

There should be separate organizations of personnel engaged in these two distinct functions so as to permit placing at the head of each a man whose past experience and natural ability peculiarly qualify him for his particular responsibility. At the head of the organization for enforcement of the criminal provisions of the law there should be placed a man of thorough experience and demonstrated ability in the investigation and prosecution of crime.

APPROPRIATIONS

"1. Substantial increases in appropriations are essential. Congress should determine by exhaustive inquiry and hearings the amount reasonably needed for effective enforcement."

Reasons: Under policies of economy and retrenchment, effectively applied through the budget system, no annual appropriation so far made by Congress has provided means for an effective effort toward enforcement. For this reason the number of officers actually engaged in the investigation of violations has not exceeded 2,500. Under the eighteenth amendment the Federal Government is having its first experience in the exercise of the police power, yet it has provided for that purpose a force of officers for the entire country that equals only a small percentage of the number of police officers employed by any one of our several large cities. It is just as futile to hope for effective enforcement with appropriations inadequate to maintain a sufficient number of officers to accomplish that purpose as it would be to expect success at arms under like conditions. The "enemy" in this case is well organized, well financed, and directed by shrewd minds; the Government must match him in all three respects if it is to prevail.

POLICY

1. Affirmative action should be taken by the Government, through capable officials of high position, to develop an active and sympathetic cooperation between dry States and the Federal Government in enforcement of the law; thus allowing concentration of Federal officers in wet States refusing cooperation.

2. Faith in the ability of our Government to enforce obedience to its Constitution and laws should be the only spirit, and an earnest purpose to perform its obligation in that respect should be the only policy, of all officers bearing responsibility for law enforcement. None should be commissioned or retained in service who can not prosecute that policy in that spirit.

PRESIDENTIAL SURVEYS PROPOSED

By Irving Fisher and associates

The most practical plan to make the eighteenth amendment effective should be fitted, as nearly as possible, to the policy and methods of the incoming President. That policy, as Mr. Hoover has declared it, is primarily opposed to coercion, bureaucratic extensions, and centralization. Instead, it is a policy of—

(1) Informing the Nation, scientifically and from unbiased sources, of defects and abuses in the application of the eighteenth amendment; and

(2) Invoking the power of informed leadership to remedy the abuses and through organized, voluntary effort to secure general observance of the law.

In his administrative work the President elect has invariably offered cooperation to representative groups of men and women in States and local communities. By employing the principles of decentralized organization, leaving the execution of details to local autonomy, and of cooperation through volunteer committees of leading citizens, Mr. Hoover succeeded largely in regulating the food supply of scores of millions of people in Europe during and after the war; in forming and conducting the United States Food Administration, and in reorganizing the Federal Department of Commerce. He has announced these principles as the heart of his policy during the next four years.

It is inherently improbable, therefore, that any plan to make the amendment effective will be practicable if it fails to embody the principles whereby Mr. Hoover habitually centralizes ideas and decentralizes their execution through organized leadership among States and local communities.

Accordingly, the present plan proposes the establishment of a President's conference on effectuating the eighteenth amendment, composed of a standing committee and subordinate committees of the type of President Harding's Conference on Unemployment, of which Mr. Hoover was appointed chairman.

The proposed conference would organize (1) a survey of defects and abuses in applying the eighteenth amendment, and (2) a concerted appeal for leadership, through all appropriate agencies of the Nation, in correction of abuses and in general observance of the amendment.

PERSONNEL OF CONFERENCE AND SURVEY

For the proposed survey, the conference should create a staff in large part from such organizations as the National Bureau of Economic Research, the Russell Sage Foundation, American Engineering Council, and Government departments. Committees of the conference and collaborating editors under legislative, administrative, and judicial headings should be drawn from bar associations and Government; those under heads of social derelictions and observance, from universities, educational associations, faculties of medical schools and hospitals, federations of women's clubs, social settlements, religious and ethical bodies; and those under business and industrial headings from business men's associations and foundations for economic research.

Organization to effectuate the eighteenth amendment according to this principle should win cooperation of certain leaders in business, education, and law who oppose bureaucratic force in administering the amendment. Appointment of such leaders to conference committees would tend to harmonize all leadership, including that of the press, motion-picture chains, and radio networks, in support of the expressed will of the people and in aid of their elected executives. If by such cooperation the habit of abstinence can be inculcated among the rank and file of the people, the spirit of the amendment will be subserved, and legislative, executive, and judicial problems under it will be vastly simplified.

I. A SOCIAL AND ECONOMIC RECONNAISSANCE SURVEY

METHODS OF PROPOSED SURVEY

Mr. Hoover defines national prohibition under the amendment as a "great social and economic experiment"; he urges, as the first step toward its constructive working out, an "organized, searching investigation of facts and causes" of well-recognized abuses.

His methods in conduct of social and economic investigations, successfully applied in cases enumerated in his speech at St. Louis on November 2, 1928, are not those of political committee hearings; they are methods of engineering management. The methods required for the proposed survey are those described by Edward Eyre Hunt of the Department of Commerce, in the paper and accompanying discussion entitled "Notes on Economic and Social Surveys." Taylor Society Bulletin, February, 1928. Inclusive of raising necessary funds and organizing personnel, they are of the kind embodied in the current Survey of Recent Economic Changes in the United States undertaken by request of Mr. Hoover as continuing head of President Harding's Unemployment Conference, by the National Bureau of Economic Research.

TIME AND SCOPE OF PROPOSED SURVEY

The survey would be designed to bring into sharp focus knowledge about defects and abuses in application of the amendment; to appraise them, and with all reasonable expedition to present the findings as a basis for public and private policy making. The survey should be arranged according to a time schedule as recommended by the conference.

In the interest of dispatch such a survey can not undertake although it will suggest detailed new investigations and research, which should be prolonged under a continuing organization. But this should not be allowed to postpone preparation of the report on the basis of existing knowledge, its publication, and action thereon with all convenient speed.

MAIN SUBDIVISIONS OF PROPOSED SURVEY

Preliminary survey of conditions, 1900–1929; State prohibition, local option, Government dispensaries (South Carolina), and licensed saloon, 1900–1916; war-time restrictions of liquor traffic, 1917–1919; eighteenth amendment and concurrent State laws, 1920–1929. Contrast should be drawn between courses adopted toward liquor traffic in United States and other countries, especially Canada.

1. Legislative, administrative, judicial:

(a) Legislative: Defects in Volstead Act as to minimum and maximum penalties; arrests, search, and seizure; legal rights to seized liquors; "double jeopardy"; injunction and abatement; tenure and removal of enforcement officers; control of industrial alcohol distilleries and warehouses; permits to manufacture articles containing alcohol, forfeiture; use of United States marshals and their deputies as enforcement officers; courts of inquiry respecting violations of law; summoning of witnesses; contempt; evidence relating to sales, manufacture, transportation, possession of intoxicating liquor; evidence of instruments or materials for making same; permits for nonalcoholic malt beverages; alcoholic liquors "fit for use" as a beverage.

Inadequacy of appropriations and salary schedules, State and Federal. Comparison of Volstead Act with body of Federal statutes formerly controlling liquor manufacture, possession, transportation, and sale made inoperative by Volstead Act under section 9, title 3. Regulations "in addition to existing law" under executive discretion of Treasury Department. Relation of Prohibition Unit to Treasury Department; practicability of making unit dependent bureau or placing it under Department of Justice.

Comparison of Volstead Act and existing State enforcement laws. Consequences of repeal or omission to enact State codes—New York, Maryland, Nevada, Montana; lack of sufficient judges, prosecutors, enforcement officials, and agents. Practicability of adopting each State code as Federal law in lieu of Volstead Act within State bounds, leaving Volstead Act to apply only within States and possessions lacking enforcement codes. Possibility of Federal Government cooperating rather than competing with States and assisting them financially, with main reliance on administrative machinery of local government.

Treaties with foreign nations for cooperation; infringement of 12-mile limit.

(b) Administrative: Corruption, crimes of prohibition agents. Wire tapping. "Undercover" agents. Agents provocateurs. Civil-service regulations; examinations. Personnel selection, training, experience among agents and officials. Cooperation of Department of Justice with Prohibition Unit; instructing, training agents. Morale contrasted with that of Secret Service. Concentrating forces in wet districts. Cooperation with local officials.

(c) Judicial: Inadequate courts, State, Federal, handling cases. Jury trials. Lack of verbatim reports of Federal grand juries. Abuses of judicial discretion: Inadequate penalties; overemphasis on technicalities; abuse or insufficient use of injunction clauses. Delays. Insufficient bail bonds. Connivance at perjury and conspiracy by lawyers for defense; tampering with Government witnesses. Lack of rules governing disbarment proceedings for offenses against Federal courts. Election, appointment, impeachment of judges, State and Federal.

2. Social derelictions of habit and observance; health; education:

Attitude of ethical and religious leaders and organizations, social settlements, men's and women's clubs and organizations toward eighteenth amendment; of associations against amendment; of physicians toward restricting prescriptions. Drinking in colleges, high schools, at private tables, social gatherings. Social clubs. Speak-easies. Bootlegging, home brewing, home distilling. Smuggling. Illegal diversion: Sacramental wines, industrial and medicinal alcohol. Public education in light of scientific findings regarding effects of alcohol in (a) wines, (b) malt, and (c) spirituous beverages. Tests of efficiency among drinkers and abstainers in athletic sports and industrial occupations. Accidents from (a) moderate, (b) heavy drinking by motor-car drivers. Effects of moderate drinking in a high-powered age. Findings of insurance companies, other agencies, and individuals on life expectancy of (a) abstainers; (b) moderate drinkers; (c) heavy drinkers. "Bootleg" beverages; toxicity. Diseases and deaths of men, women, and workers as affected by alcoholism (a) before and (b) after adoption of amendment; (c) compared with other countries. Poverty, dependency, crime, industrial accidents.

3. Deficiencies of law observance in business and economic practice as to:

Contract relation between employers and employees regarding abstinence. Concerns requiring abstinence: Transportation, public utilities, manufacturing, mining industries; shops, department, and chain stores. Rules governing personal habits of employers and managers. Moral, material support of amendment by organizations specially benefiting by abolition of liquor traffic—mining, transportation, motor car, radio, motion picture, electric appliances, soft drinks, food and dairy products, confectionery, ice-cream industries; chain and department stores; installment finance companies. Labor unions, company and mutual benefit associations (a) requiring abstinance, (b) supporting amendment. Brewers and distillers; attitude toward companies requiring abstinence; blacklisting. Salvaging of plants of brewers and distillers, and of crops formerly devoted to producing alcoholic beverages.

Conclusion: Chief elements of problem under above headings appraised and interrelated.

II. CONCERTED APPEAL FOR LAW OBSERVANCE AND REMEDY OF ABUSES

The conference recommendations on the survey, as approved, should be carried out by the central committee, its subcommittees, and coordinate committees working through all appropriate existing agencies throughout the States and their subdivisions.

For example, the legislative, executive, and judicial committees should bring the conference recommendations before their respective municipal and State legislatures and Congress for appropriate action; and before municipal, State, and Federal administrations and the local and Federal judiciary. They should cooperate with commercial, industrial, scientific, educational, moral, and religious bodies in organizing public sentiment favorable to needed measures.

Committees on social derelictions, health, and education should employ conference funds in behalf of general abstinence from intoxicants and law observance by means of newspaper and magazine advertisements, posters, motion pictures, speeches, and communications to the press; arranging cooperative meetings with editors and publishers; and by addresses of leaders and experts transmitted over radio networks and by "sound pictures." Educational committees should urge systematic scientific instruction regarding physiological and psychological effects of alcohol in public and private schools and colleges. Committees of women's social organizations should reach their membership by thorough canvasses for pledges or agreements by social leaders (not necessarily personal abstinence pledges) to discontinue serving intoxicants at private tables and social gatherings.

The committees of business and industrial associations, cooperating with labor committees, should urge universal use of employment contracts requiring abstinence by employers and employees alike, and through employees' mutual benefit associations set forth the advantages of increased health and lower insurance rates among abstinent workers.

Such activities will benefit from the experience of emergency organizations during the war—especially of the Liberty loan campaigns and popular canvasses for conserving foodstuffs and materials needed at the front, which through public appeals brought about rapid changes in the habits of the people. Conditions are ripe for such a movement, in which the enthusiasm of organizations of men and women throughout the country awaits the kindling of concerted action and leadership.

In leading this movement the President will have the aid of corps of men and women who under him became veterans in executing plans that have affected the voluntary action of entire peoples, including our own people. The carrying out of the proposed plan would furnish another signal instance in which the cooperation of the Nation's leadership will have "reinforced our individualism" (to use once more the words of Mr. Hoover) "by reducing and not increasing Government interference in business and the life of our citizens"; cooperation that assists "in the cure of abuses by the voluntary establishment of a higher code of ethics and a stricter standard in the conduct of business."

ECONOMIC AND SALESMANSHIP RESEARCH

By Robert W. Davis, advisory editor, McGraw Hill Publishing Co., New York City

The future enforcement of the eighteenth amendment to the Constitution is basically a business problem. As a business problem it must be approached from a practical business standpoint and solved in accordance with the recognized rules of good business procedure. Such has not been the approach to the question up to the present time. It has been treated almost entirely as a "great moral experiment" in a materialistic age where independence of action has dominated all human thought. The amendment was passed as a moral issue against the violent protest of a large minority, a minority sufficient in power, wealth, and strength to render complete enforcement almost impossible. Millions of good Americans feel that the law is a violent intrusion into the sphere of private morals and that it is no crime to disregard it or actively seek to bring about its nullification if repeal can not be obtained. So long as such a conviction abides and increases in this country it is idle to resort to strong-arm methods in the effort to extinguish it. Enforcement can be completely successful only if the normally law-abiding citizenship acknowledge the value of the law. Enforcement through force against the sentiment of a large minority of the law-abiding citizens soon becomes tyranny and can not be permanent in character.

As a business proposition, however, the question enters into an entirely new sphere of human thought and action. To-day even the partially educated readily comprehend the terms "increased efficiency," "increased production," "lower production costs," "larger net profits," "higher wages," "lower cost of living." Such phrases mean "more dollars," "increased purchasing power," "more comforts," "more leisure"—phrases of human well-being which appeal and are readily acceptable to all members of all strata of society. It is as the "great business experiment" and as the "great business asset" that the American people must approach the eighteenth amendment if it is to be ultimately and completely enforced in this Nation. The moral side must be made subservient to the practical business side, and all of the American people must be sold to the fact that in the rigid enforcement of this amendment lie continued future comforts and material pleasures through increased consumer purchasing power.

THE SOLUTION

As a business problem the successful enforcement of the eighteenth amendment falls under four distinct divisions of recognized business procedure:

(Plan 20142)

First. Economic research (practical research into the commodity being sold): A detail and throughly scientific study of the economic assets and liabilities resulting from the enforcement of the eighteenth amendment since its adoption.

Second. Education (an advertising campaign of a superproduct): A nation-wide educational program selling to the American people the economic benefits of prohibition as determined by the economic research studies.

Third. Methods of enforcement (salesmanship research): A study to ascertain the deficiencies of present enforcement methods with a view toward evolving enforcement methods which, if applied, will enforce but not offend.

Fourth. Effective enforcement (sales achievement): Rigid enforcement of the eighteenth amendment among all classes and grades of society in all localities and without partiality.

A NATIONAL PROHIBITION COMMISSION

(Chart 1)

To insure proper coordination as well as to give authority to the economic studies, education and final enforcement, the problem and its solution should be placed under the direction of a special governmental commission. This commission should be designated as the "national prohibition commission," and should consist of the Secretary of the Treasury (under whose direction the eighteenth amendment must be enforced), the Secretary of Commerce (whose function is the upbuilding of American business and industry), and a private citizen appointed by the President of the United States with the approval of the Congress. Such a commission should be established by act of Congress, its functions specifically designated, and appropriations made to carry on its work as outlined in the following paragraphs:

ECONOMIC RESEARCH

The first step in the solution of a business problem is to establish a background, to ascertain the exact situation, and to establish factors which will determine the assets and deficiencies of, as in this case, the product or proposition to be sold to the public. The eighteenth amendment has now been in force for about 10 years. It has been without question an economic asset to the business and industry of the Nation. But what are these assets? How has it affected wages, labor turnover, labor efficiency, production efficiency, production costs, transportation, distribution, retail trade, savings-bank deposits, life insurance sales, financial investments, cost of living, as well as the social side—housing, education, and recreation? These facts are unknown to-day, although they are available and are essential to a convincing sales argument as to the value to be placed by the American people upon the superproduct—the economic advances to be gained by the effective enforcement of the eighteenth amendment.

These miscellaneous economic facts should be ascertained by the national prohibition commission through the operation of especially appointed committees of citizens, expert in the various lines of research. In order that definite and rapid work shall be accomplished by the various committees, such committees should properly come under the immediate direction of the Secretary of Commerce or of the private citizen on the national prohibition commission, dependent upon the type of study to be undertaken by the specific committee. These committees would render a complete report to the member of the national prohibition commission who is directing this work, and these reports would be used by the national prohibition commission as a foundation for the next step—education.

The following committees should be appointed by the national prohibition commission to make these economic studies:

(Chart 2)

Committee of executives, engineers, and economists to study the industrial economic advances resulting from past prohibition enforcement—

(a) Labor efficiency in the factory.
(b) Increased production.
(c) Decreased production costs.
(d) Labor disturbances.
(e) Decreased turnover.
(f) Decreased absenteeism.
(g) Increased cooperation.
(h) Increased wages.
(i) Increased operating suggestions.
(j) Increased interest through stock ownership.
(k) Comparison with foreign labor.

(Chart 3)

Committee of legal minds to study the various sides of the prohibition question—

(a) State enforcement laws.
(b) Relationship between Federal and State enforcement laws.
(c) Eighteenth amendment and Volstead Act relationships.
(d) Canadian prohibition system.
(e) European prohibition systems.
(f) State liquor distribution.
(g) Interstate legal complications.
(h) Federal and State court coordination.

(Chart 4)

Committee of scientists, physicians, etc., to study alcoholic limitation—

(a) Physiological effects of present alcoholic content.
(b) Physiological effects of preprohibition alcoholic content.
(c) Determination of proper alcoholic limit.
(d) Alcoholic limit of foreign countries.
(e) Physiological effects of beer.
(f) Physiological effects of light wines.
(g) Distribution for medical purposes.
(h) Prohibition and general public health.

(Chart 5)

Committee of labor leaders, economists, and social-welfare workers to study the influence of prihibition enforcement upon labor—

(a) Home life.
(b) Recreation.
(c) Education.
(d) Employment.
(e) Strikes and lockouts.
(f) Wages.
(g) Increased efficiency.
(h) Civic responsibilities.
(i) Savings.
(j) Psychological outlook.

(Chart 6)

Committee of ministers of the gospel representing all faiths to study effects of prohibition upon the general religious life of the Nation—

(a) Church attendance.
(b) Membership increases.
(c) Donation increases.
(d) Increased interest.
(e) Increase in number of children in Bible schools.
(f) Increased use of the Bible.

(Chart 7)

Committee of educators to study the effect of prohibition upon the public-school system and upon college education—

(a) Attendance.
(b) Reflection of better home environment.
(c) Increased attention.
(d) Higher marks.
(e) Elevation in general outlook.
(f) Increased interest in colleges in practical subjects.
(g) Increased interest in colleges in cultural subjects.
(h) Influence upon athletics.
(i) Influence on college social life.

(Chart 8)

Committee of welfare workers, economists, sociologists, and psychologists to study social effects of prohibition enforcement upon all classes of the American population—

(a) In the home.
(b) Recreation.
(c) Education.
(d) Civic pride and responsibility.
(e) Savings and investments.
(f) Home ownership.
(g) Comforts.
(h) Freedom from worry.
(i) Elevated marriage relations.
(j) Decreased social evils.
(k) Effect on crime.
(l) Effect on general psychological attitude of the Nation.

(Chart 9)

Committee of economists to study the effect of prohibition upon general economic trends—

(a) Cost of living.
(b) Consumer purchasing power.
(c) Commodity prices.
(d) Cost of living and income, by industrial groups.
(e) Foreign consumer purchasing power.
(f) Cost studies.
(g) General trade.
(h) Foreign commerce.

(Chart 10)

Committee of bankers, executives, and general students of finance to study effect of prohibition enforcement on general finance—

(a) Net corporation profits.
(b) Savings-bank deposits.
(c) Building and real estate.
(d) Security sales.
(e) Stock market transactions.
(f) Corporation investments.
(g) Money rates.
(h) Business failures.
(i) Bank debits.
(j) Taxes.
(k) Federal, State, and city income.

EDUCATIONAL

Having ascertained the facts, having through research established the economic results of prohibition and their place in the present industrial, business, and social structure of the Nation, the next step in the solution of this business problem is to educate the American people to these facts. This phase of the study constitutes the mainspring of the successful enforcement of the eighteenth amendment. The mental attitude of a large minority of the Nation must be changed, not by preaching nor dissertations upon morals but by the presentation of economic facts which will prove to each man and each woman that the enforcement of the prohibition law means increased consumer purchasing power. Adult education based upon the humanly inherent principle of egotism and paternalism is in line with present-day pedagogic thinking. When the American citizen—the business and industrial executive and also the man of the street—realizes that each dollar spent for intoxicating liquor results indirectly in decreased material profits to himself, to his family, to his business, and to his country, then and not until then is he going to back the officers of the law in the enforcement of the eighteenth amendment.

Education is a function of the American Government. The education of the American people by the Federal Government upon this constitutional question, therefore, is not a radical step, but is just as natural a Federal governmental procedure as is the extensive campaign on waste elimination now being waged so successfully by the Department of Commerce. Such education should be in direct charge of the Secretary of Commerce or the presidential appointee as members of the National Prohibition Commission, should be amply financed by congressional appropriations, and should be based upon the following methods of procedure:

1. A weekly publication stating the economic facts of the various surveys.
2. A publicity bureau.
3. Billboards.
4. Radio talks.
5. Lectures in public schools.
6. Discussions before churches, service clubs, etc.
7. Lectures with movie charts.
8. Active indorsement of economic findings by industrial, business, trade, and labor organizations.
9. Cooperation of industrial executives in employee education.

METHODS OF ENFORCEMENT

Having ascertained the true facts relative to the economic benefits of prohibition, having educated the American mind to these facts, and having won the sentiment for the prohibition laws through the weight of economic argument, efficient enforcement becomes the next phase of the problem. This requires first a study of present enforcement methods by committees under the direction of the Secretary of the Treasury:

1. A committee of legal minds to study the present Federal and State enforcement laws with special consideration to revising the laws to make them more effective and more fully coordinated.
2. A mixed committee of legal minds, executives, and welfare workers to study present abuses in the administration of prohibition enforcement.
3. A committee of executives to study enforcement methods best suited to industrial workers.
4. A committee of Government officials to study more efficient methods of prohibiting smuggling and bootlegging.

RIGID ENFORCEMENT

Enforcement agencies:

1. Federal prohibition land force.
2. Federal prohibition water force.
3. State constabulary.
4. County and municipal police force.

As an integral part of the American Constitution the eighteenth amendment should be rigidly enforced. As an economic detriment to the national wellbeing, the importation, manufacture, distribution, and sale of intoxicating liquors should be prohibited as effectively as is the importation and sale of narcotics. If the economic facts are ascertained, the people educated to believe and have faith in these facts,

and the enforcement laws revised to eliminate present existing abuses, the rigid and complete enforcement of the eighteenth amendment should be as easy as is the enforcement of laws against narcotics, general smuggling, and other crimes against the national commonwealth.

JUDGE EWING COCKRELL, CIRCUIT COURT, WARRENSBURG, MO.

(President United States Federation of Justice)

THE PLAN'S FOUNDATIONS

1. The eighteenth amendment is effective—to an extent.

Notwithstanding its failures, it successes have been many, its blessings are great.

The problem essentially is to make it more effective—to multiply these successes and extend these blessings.

The plan here submitted is to utilize all the actual achieved successes of the eighteenth amendment. It presents concrete means of extending the definite methods and practices by which all these successes have been and are being won.

2. Eighteenth amendment effectiveness consists of two halves: (1) Obedience—getting everybody possible to obey it; (2) enforcement—punishing those disobeying it.

This plan covers both halves.

3. Eighteenth amendment enforcement is literally nobody's business. It is *the business* of many independent bodies.

The violator of the amendment fights 19 soldiers of the law. If he whips any one of these 19, he wins the whole battle. These 19 are: (1) Police; (2) prosecutor; (3) trial judge; (4) authority selecting the jury panel; (5 to 16) 12 jurors, any one of whom may block a verdict; (17) appellate court; (18) jailor; (19) pardoning authority.

If the police don't catch a bootlegger, all the other officials are helpless to convict him. If the jailor does not hold him, all the others have been futile in convicting him.

Hence the effective enforcement comes only from all these groups being effective. It requires not one but many "plans."

This plan provides all the "best" enforcement plans for all officials and brings such plans to all officials.

4. Complete obedience must come not from one group of citizens but from all groups.

This plan reaches all groups.

5. The best plans are worthless if not followed.

Officials and people follow their leaders. This plan is, in essence, indorsed by the Nation's leaders—Chief Justice Taft, Vice President Dawes, Speaker LONGWORTH, Majority Leader CURTIS, and Minority Leader ROBINSON, of the United States Senate, and Majority Leader TILSON and Minority Leader GARRETT, of the House of Representatives—and by the greatest force of other leaders ever cooperating in any movement for better law enforcement in this country in this generation.

6. To-day, many officials and individuals are doing finely in part of the work of making the eighteenth amendment effective. But with millions of people interested in making it effective, no official, no organization, no body exists to-day whose job is to get done the parts of the work that are not done.

This plan makes eighteenth amendment effectiveness the definite business of a definite somebody who is able to do effectively the definite things that need to be done.

7. Making the eighteenth amendment effective is a job primarily not of law but of administration.

Our officials normally are taught the principles of what is the law but not the practices of enforcing the law.

There exist no colleges, law schools, or other institutions that systematically teach law administration. And here are our breakdowns.

This plan provides for teaching officials and people the concrete practices that actually are successful in bringing eighteenth amendment enforcement and obedience.

THE MACHINERY AND STEPS OF THE PLAN

Let any individual or organization provide a specific organization (or individual) with the specific job of promoting all the "best and most practicable plans" or parts thereof that are submitted to this award committee or that may hereafter be found.

This organization may work in any State or the whole country.

It can start very simply. For directors, a few leaders of the country (or State). For active staff, one capable executive and a stenographer. Call the organization national (or any State) temperance alliance or other desired name. (Called alliance in this paper.)

Let the alliance through this executive then do any of these things—

1. Investigate all plans submitted in this contest. Outline an investigation through existing literature and among officials, organizations, and others most successful in getting the eighteenth amendment enforced and obeyed of the specific methods and conditions securing such successes and of how they can be established.

2. (a) Notify all enforcement officials and every chief organization of this investigation.

(b) Offer to bring to them free of charge its results in reports, manuals, etc., containing the methods, practices, and principles that have actually proved successful in each department of officials and in each kind of organization, and specifically adapted to use by each department or organization.

(c) Invite leaders of such officials and organizations to approve in advance the plan and steps of this investigation. Offer to modify any proposed steps to meet their approval. Invite them, few or many as desired, to become active or advisory members of the alliance. (Enlist especially "wets" who advocate law obedience.)

This creates an undertaking really by the officials and organizations themselves. This is extremely important.

The national alliance could start quickly with this committee of award as initial directors or members. (Senators BORAH and GLASS would be specially valuable nationally and with officials.) It could quickly be enlarged to the most valuable organization ever formed in this country in this day to support any one law.

3. Make the investigation as planned, approved by the alliance's members.

Compile for each department and each interested organization condensed reports of the successes actually achieved in such department or kind of organization and of the concrete methods, practices, and principles that achieved them. Alliance members first approve these reports.

This could be well done in six months. Striking successes are already known.

4. Get these reports to the officials and organizations through their own committees and meetings, which would explain the reports and urge their use.

This procedure secures the maximum practical use of any plan.

5. Compile and offer to the law schools brief courses and texts that teach the successful principles and practices of eighteenth amendment enforcement.

Compile and offer to the colleges and high schools courses and texts that teach the successful methods and means by which citizens and committees secure both enforcement and obedience.

Assist all schools, organizations, and individuals to establish such courses.

6. Continue and enlarge this work and the "alliances" in every State and community.

7. Offer to organizations and individuals to assist them in any way and to serve as a clearing house on successful methods of making the eighteenth amendment effective.

No such institution now exists. This alone would be an immense, permanent contribution to the country.

8. Publish a small periodical containing accounts of the alliance's work, interesting news, and successes by officials, organization, and communities, short descriptions of methods and plans for enforcement and obedience, and many other helpful things.

Distribute free to all newspapers and interested organizations' heads. Send copies to newspapers in advance with permission to use any material desired.

Secure advertising.

Secure additional paid circulation.

It apparently could be made self-sustaining or better.

It would do a great deal of the work of the alliance already outlined.

No such periodical now exists.

None of the foregoing eight things is now being done.

All of the great results accomplished would be clear gain.

OUTLINE OF PROVED SUCCESSFUL PLANS THAT MAY BE INAUGURATED IMMEDIATELY

I. ENFORCEMENT—OFFICIALS

Police

1. Appointment everywhere of many capable part-time assistant police sheriffs and prohibition agents paid from fines from convictions. This will efficiently multiply police force many times at no cost.

2. Efficient police and agents' schools. Multiplies effectiveness many times. (No new laws or expense.)

Prosecution

1. "Pile-up" (true) charges in number and severity till defendant pleads guilty.

2. File perjury charges where perjury committed.

(No new laws or expense.)

Trial

1. Established "unified" business court organization and procedure. Revolutionizes courts in efficiency and economy.

(By new legislation.)

2. Select only good jurors for all panels.

(No new laws or expense.)

Can revolutionize "jury system."

Judgment

1. Imposition of heavy sentences. Parole after serving part. State control and guidance till reformation proved.

Punishment is a medicine for deterrance and reformation. Don't give it all in one dose.

2. Payments by violators of this law that will pay for all its enforcement.

(No new laws or expense.)

Punishment

Prisons.

1. Employment of prisoners whereby each one earns wages and also supports his family.

2. Training for citizenship.

3. No prisoner released except under State control and guided back to law-abiding life.

Deterrence

Newspaper emphasis lessened on the success of criminals and increased on their convictions, punishments, and miseries.

Personnel

Definite systems of reports and inspection that reveal the honest and corrupt officials and the efficient and inefficient.

(Usually no new laws needed.)

I. SUCCESSFUL PRACTICES BY CITIZENS

1. Organizations asking candidates before election to follow specific effective practices. Much publicity.

2. Citizens' commissions, etc.—

(a) To learn facts.

(b) To assist in criminal law administration.

(c) To promote best legislation.

(d) To educate people on law enforcement.

A citizens' organization is valuable in every county and community.

II. OBEDIENCE

Schools

1. Practical, modern course on evils of liquor drinking.

2. Prizes for best compositions on appropriate topics; sponsored by leaders, especially the rich and "successful."

3. Course on law obedience, advantages, or disadvantages of obedience.

Picture shows

Stories promoting obedience and enforcement.

Newspapers

1. News and other stories of same type as picture shows.

2. Publicity correlating all other steps in enforcement and obedience program.

Organizations, business, social, civic, religious, and other

1. Resolutions that encourage obedience.

2. Joining in appropriate movements, already outlined; furnishing funds where necessary.

3. Organization of special groups, e. g., business houses publicly barring employees who drink—hosts and hostesses not serving liquor, etc.

All the foregoing are established successes; most of those in police, prosecution, trial, and judgment in the writer's own courts. Full reports exist of all.

They show enormous possibilities that can be made realties.

Anybody, the alliance, especially, can promote their establishment everywhere.

This plan put into a specific simple program for the President

An actual part of his job as enforcement official and national leader. Executed with use of but two officials and with little time on his part.

I. ENFORCEMENT

A. Let him have capable officials.

1. Have made this survey of successes of enforcement;

2. Compile manuals of these and of the practices and principles by which secured.

3. Have department (bureau) heads explain the manuals, adapt them to varying conditions and direct their use;

4. Prescribe reports from officials of their use and results;

5. Provide much publicity and encouragement to this successful use; possibly competition and awards.

Above is simply Federal enforcement.

B. 1. Later, or at once, offer these manuals to all State officials;

2. Offer to pay expenses of officials attending conferences where manuals are explained.

In all this, public opinion and officials generally would overwhelmingly follow the President's lead.

Thus, the present achieved, but scattered successes of enforcement would be multiplied enormously over the Nation.

II. OBEDIENCE

A. Let the President have the Commissioner of Education or other official—

1. Investigate the successes of prohibition obedience and means whereby secured.

2. From this investigation compile into reports and manuals—

(a) The best school courses that teach obedience;

(b) The best means for organizations and groups to promote such obedience;

(c) The best family training for such obedience;

(d) How all these are best established.

B. 1. Offer these reports and manuals to all organizations and groups.

2. Offer educational and organization heads capable men to explain and adapt these reports.

Millions of people would gladly follow the President's invitation, and everybody would know what to do.

Now, millions have nobody to follow and know not what to do.

The cost of the essential parts of this presidential program (part A) would be nothing. Existing officials and appropriations would be ample.

Its great extension (part B) would cost only a small sum. Where millions have been spent by the Government to promote the raising of good hogs, thousands would suffice to promote the rearing of obedient children.

Any President can do this, in whole or in part, at any time. Any alliance at any time can help him do it.

OPERATION OF THE PLAN

This plan is for—

1. The suggested "alliance";

2. Any other organization;

3. The President;

4. Any governor;

5. Any group of officials;

6. Any group of people;

7. Any single authority who enforces the law or teaches or promotes obedience to it.

It is usable:

1. In the Nation, any State or group of States;

2. In whole or any part.

We talk much about the failures of this law, but do little about its successes.

Its successes exist and are easy to find.

Let's find them and use them.

ORGANIZE COMMUNITY ACTIVITY

By E. J. Davis, of the Better Government Association of Chicago and Cook County, Chicago

Any practical system to make the eighteenth amendment effective must start with conditions as they are, with the law as it is, and with the men who at present have the power to enforce it.

It also must take into consideration the fact that there can be no thorough enforcement without intelligent local cooperation between the citizens and both Federal and State officials.

Therefore for the best results a system must be adopted which the citizens of any or all communities may use.

The law should be and is comparatively easy to enforce where there is the will to enforce it, because the liquor traffic can not hide itself.

The chief causes for failure in enforcement of the eighteenth amendment in any community are:

First. Lack of accurately informed public opinion.

Second. Lack of reliable information regarding the character and record of public officials.

Third. Lack of organized nonpartisan support for honest public officials.

Fourth. Lack of punishment in the courts and at the polls of dishonest public officials.

With money, the illicit liquor traffic buys political protection and where the traffic flourishes it may be assumed that large sums are used in corrupting public officials and in building a political machine. The corrupting power of such machines, in some States, reaches into influential political quarters.

Organized crime in such communities is powerful because the illicit liquor traffic needs criminals to fraudulently elect public officers who will wink at law enforcement. Officials who will sell protection to the liquor traffic will also sell protection to vice and all forms of organized crime, and will graft upon the public treasury; therefore every law-abiding, patriotic citizen should help enforce the eighteenth amendment.

The present situation will not correct itself. But if there is well-directed, organized community interest and activity the political power of the traffic can be defeated and the traffic destroyed.

Let the community, as a first step to enforcement, form a local group which may be called a better-government association or federation. This may begin with some individual calling a conference of representatives from business, professional, and other nonpolitical groups and organizing under a State charter.

Let such organization begin with the assumption that the officials want to do their duty and that they want the cooperation of the public.

At the very outset have a frank and friendly conference with the officers, assuring them of a desire to cooperate with them.

Study conditions, collect the facts, and if sufficient data is found showing official culpability, invite the officer who seems to be principally responsible to meet with the officers of the association and go

over with him the facts that seem to point to him as the man responsible for the breakdown in law enforcement. Do not gloss things over but fact him with all the facts in a fair and considerate spirit. If the facts are in the nature of court-proof evidence, give them at once to the grand jury. If the evidence is circumstantial only, do not yet go to the grand jury. Sometimes perfectly true and logical explanations may be produced. Give no publicity to your proceedings thus far.

If the official does not respond to this treatment, then the next step is to take the facts to his superior.

Let us assume that the responsibility is located upon a United States deputy marshal; take the facts to the United States marshal, and if he fails to act give no publicity to the proceedings, but file the record for future use and begin on the next case.

If the trouble should be with an assistant United States district attorney, proceed as above, and if necessary take the facts to the United States district attorney. If a prohibition agent is involved, follow the same procedure, finally going to the prohibition director for the district; but still no publicity.

After several cases have been carried through in this way, review the facts in all of them with the United States marshal, the United States district attorney, or the prohibition director and ask what should be done with the facts—shall they be submitted to the United States Senators, or Representatives, to the Attorney General, or to the newspapers? It may be necessary to appeal to the voting constituency of the political sponsor of some of the officers involved, but this should be done only after careful preparation of the field.

The most powerful weapon to secure the enforcement of the law is publicity of the facts, but the publicity needs to be handled carefully or the agency responsible for the publicity soon degenerates, in the public mind, into the status of a common scold and loses its influence.

The more patience used in developing and following the cases through, the more carefully the facts are safeguarded, and the fairer the organization has been in affording opportunity for the officials to buckle down to real law enforcement without exposure, the more convincing the evidence is should it finally be necessary to appeal to the public, and the more destructive it is to the influence of the officeholder who is responsible for the delinquency.

Firm, patient, unprejudiced, considerate, but relentless following of the facts will improve the enforcement of the eighteenth amendment in any community, and will finally triumph in complete enforcement.

In States which have enacted prohibition legislation in harmony with Federal law the same procedure should be followed with the police captains, sheriffs, State's or prosecuting attorneys, and other local officials as outlined in the foregoing procedure with Federal officials, the ultimate recourse resting with the public in both instances.

There should be State and national units formed of representatives from the local organizations. Annual conventions should be held, both State and national, for strengthening State and national administrations when necessary, for the exchange of ideas, and improving the programs of the local units.

In populous communities it is particularly difficult for the public to get accurate, reliable information regarding candidates, and in consequence the voters become discouraged. Unscrupulous politicians know this. They build a machine on the money of the bootleggers—plus the other spoils of corrupt politics, and then set out to deceive the general public. They make fine gestures of interest in social service to the women's clubs and social-service groups—talk soft to the church folks and make fair promises which they laugh about afterwards. The joke must be taken out of such promises.

In any community it is not good public policy to carelessly elect officials and then forget about them until the next election. This is particularly true of communities where underworld leaders are willing and eager to pay for protection. Under such conditions the temptation is doubly severe because the officials think, and too often rightly, that the public is paying no attention, and the bootleggers do not ask them to do anything aggressively dishonest but merely to turn their heads while the law is violated.

It also is not good policy to let honest officials fight their political battles alone—neither is it good policy to let dishonest and crafty ones deceive the public by fair promises and crooked reports of their work.

To feel that an intelligent public eye is upon them all the time is an encouragement to honest officials and a deterrent to the dishonest.

If the better-government organization has functioned properly, it will be in the best position of any civic group to furnish nonpartisan and impartial information to the voters. It should prepare informative bulletins giving the concrete facts regarding officials and candidates as far in advance of primaries and elections as possible. These bulletins should be mailed to the leaders in all nonpolitical groups such as churches, clubs, improvement associations, parent-teacher organizations, etc. It should hold meetings all the time with the leaders to inform them and through them the members and their associates developing an informed public sentiment regarding the worth of the candidates. This builds a clear, discriminating, nonpartisan and powerful public sentiment which becomes irresistible by election time.

Such better-government groups should not degenerate into mere "law and order leagues," hiring detectives and taking the enforcement of law into their own hands. They should work with the duly constituted public officials, holding them to strict accountability.

Coincident with the foregoing, an educational program should be carried on to solidify public sentiment in support of the enforcement of the eighteenth amendment. In such effort it is not necessary for the better-government group to discuss the merits of prohibition itself. Such educational campaigns can and are being carried on by other groups. Possibly the better way is to base the arguments solely upon the duty to enforce any law as long as it is upon the statute books and the damage which nonenforcement inflicts upon the community and particularly upon local government.

The illicit-liquor traffic furnishes most of the money for corrupting local politics. It creats a corrupt tax-wasting political machine. It encourages and protects organized crime. It blights moral standards. It makes the community less desirable for legitimate business. It encourages the organization of gangsters in politics and promotes their success in the control of local offices.

Nonenforcement of the eighteenth amendment in any community creates a condition of lawlessness which tends toward anarchy.

Each community must be educated to see that it must choose between enforcement of the eighteenth amendment and chaos in its local government.

Few, if any, American communities deliberately choose lawless ways. They drift into lawless ways. Most of them want the laws faithfully and honestly enforced, and will so express themselves if compelled to make a choice and if the facts, and nothing but the facts, have been carefully and intelligently placed before them.

The foregoing is largely a record of actual experience in Chicago during the past two years, when in two general elections and one primary election the public defeated overwhelmingly in each election a political machine that was counted unbeatable.

In the struggle to enforce the eighteenth amendment an entire new organization of the political life of America may be brought about.

The home, the business men, all those who want nothing from the Government except that it function honestly, competently, and scientifically, may supersede in any community the political power of the underworld, but they must organize and work intelligently and continuously.

Forces which hitherto have been too largely indifferent to politics and government may now assert themselves with some hope of success, and this new stream of influence in every community as it becomes better educated politically and better organized, will make the eighteenth amendment effective. In the process it will make clean and strong the most inefficient, wasteful, and corrupt of American institutions—municipal government—and thereby strengthen all agencies and departments of governments.

REACH THE STILLS AND EXPECT MORE OF LOCAL OFFICERS

By Mrs. C. P. Mills, New York

To adopt a practical plan to enforce the eighteenth amendment it is necessary to realize how, where, when, and why the law is not now being enforced. There has been no one plan followed for any length of time in all prohibition districts.

There are six sources of supply for the leaks of alcoholic beverages into the market. The proportions of these sources differ in the various prohibition districts; the details of each can be taken care of as separate problems, but there are several fundamental principles that if applied to all will help in enforcing the Volstead Act.

1. Education of communities to the necessity of local cooperation.

Teach respect of the law and awaken the interest and pride of a community in enforcing the law by publishing the results of nonenforcement of the eighteenth amendment, such as moral conditions in speak-easies and general disrespect of all other laws, besides the health and fire risks.

Each community should realize that the Federal Prohibition Department can not be taxed entirely with the closing down of many of the seats of the leaks. Local agencies should be held responsible for enforcing respective laws. The speak-easies can often be closed for breaking the health department laws—physical examination of personnel serving food, the quality and manner of serving and preparing this food, also ventilation of rooms and kitchens. The fire departments can close these speak-easies for improper fire escapes and exits and can close factories for the enormous risk from stills and plants when alcoholic mixtures are manufactured with untrained workers (legally these places are termed nuisances, but a stronger word might be used). The police can often close the speak-easies on moral grounds.

2. There should be more judges appointed and better court facilities for promptly trying prohibition cases. Now, through lack of judges and courts there are innumerable delays and the suspected or accused lawbreaker can continue his business until his case is tried. This delay is often from six months to two years, and his business has not been stopped in any way.

3. Prohibition agents should be honest, but are they? Consider their small pay and great temptations and often risks and the moral contamination surrounding them and the large and frequent bribes offered

and the small material reward for being honest. Remove the chance of temptation coming from a dishonest person within the ranks and try to guard against the chance of bribes being offered from outside by having constantly shifting assignments and seldom the same two inspectors together and require written reports to be sent in to headquarters as soon as an inspection is completed. These reports should, of course, be checked up and the orders given only in the morning of the day the inspection is to be made. Agents often have no knowledge of exactly what kind of evidence would be considered enough to bring a lawbreaker to trial with hopes of having him found guilty. So all agents should be taught in a school the legal requirements, also should have a knowledge of a chemical test for ingredients used to denature alcohol and a test for the articles manufactured from denatured alcohol which they might have to inspect during the course of manufacture, also knowledge of how to use the apparatus for testing beer. If this is too difficult for the average agent, then samples should be taken of each stage of manufacture and sent to Government chemists for analysis. There should be no political appointments to the Prohibition Department. Let the agent detecting and reporting a lawbreaker share in the fine imposed by the Government, as is done in California by counties.

4. All manufacturers should be required to post a bond to a large value of their business assets, and this bond should be forfeited if they are accused by the Government of breaking the law. This bond should be returnable on acquittal. The bond should also be forfeited by a manufacturer if he sells to a customer who uses his product to illegally manufacture into alcohol. There are large and well-known corporations whose earnings have enormously increased by the large price now obtained for their by-products. If they could be required to make their deliveries under high forfeitable bond to customers manufacturing reputable commodities, this evil would cease.

5. Require prohibition administrators to publicly announce and post their reports (monthly or quarterly) of results accomplished in their district so interested individuals or communities can check up and the community know what is being accomplished.

The six sources of supply of illegal alcohol to the market are (A) imports, (B) beer, (C) wine, (D) legally distilled and bonded liquor, (E) alcohol, and (F) stills.

A. Imports: Government analysis of seized bootleg liquor from all over the country show that only about 2 per cent of all illegal beverages are smuggled into the country. So the Coast Guard has a well worked out system and should continue their vigilance as they have done in the recent past. The treaties with foreign countries are a great help toward curtailing this leak, which was probably the greatest when the Volstead Act was first enforced and is now the least.

B. Beer: Frequent and nonperiodical inspection of breweries with written reports of amount of mash on hand, the amount fermenting, and the amount already fermented or the finished product on hand. Again emphasize shifting inspectors and carefully check up written reports of all stages of this supply.

C. Wine is used for the manufacture into vinegar. This wine is withdrawn from bonded warehouses. If acetic acid is added to the wine a certain time before delivery to the manufacturer, the acid can not be neutralized or withdrawn and nothing but vinegar can be made of this product. Wine is also allowed for sacramental uses. (The Christians require only a small amount for this purpose, and, if there is a leak here, it is so small as to be negligible.) Unfortunately much dishonesty was uncovered through persons selling permits to distribute wine to the Jews for sacramental purposes. In one year, in New York City alone, 6,000,000 gallons of sacramental wine were withdrawn and sold through hundreds of wine shops; the persons for whom it was withdrawn often did not receive their allotment or were forced to pay a large profit to the illegal wine dealer.

In the year and a half by a careful check-up of needs, these withdrawals were cut down to 40,000 gallons a year. Sacramental wine for home use should only be issued to an adult member of a congregation, whose signature and needs are approved by the rabbi and the rabbi's synagogue and authority in turn approved by the president and secretary of the congregation. Then the receipt for this wine should be signed and sent to the administrator by the authorized person receiving it. These receipts should be carefully checked up and the president, secretary, and rabbi should be held responsible for the just and legal demands of members of their congregations.

D. Legally distilled and spirituous liquors in Government bonded warehouses: A careful check up should be made as to quantity and chemical purity of bonded liquors now on hand, because it has been proven that some of these bonded liquors have been stolen or diluted or otherwise tampered with. Change the Government guards frequently and again test liquor before it is withdrawn by permits issued for small amounts for the monthly allotments of reputable druggists and hospitals for the needs they can show by previous records of business.

E. The diversion of commercial alcohol is the basis of about 90 per cent of the bootleg liquor. This leak must be dammed. Curtail or revoke as many old permits as possible, as these were issued wholesale without proper investigation when the Volstead Act was a new law. Then issue no new permits for the manufacture of denatured alcohol or the manufacture of denatured alcohol into commodities without a thorough investigation of persons seeking permits. This investigation should go into their integrity and moral character, past and present association with any other alcoholic permittee (and his record); also the business prospects and market for goods to be manufactured. On granting permit have permittee sign agreement to notify local administrator in advance of manufacture, so this process can be witnessed by prohibition agents. Again emphasize the fact that different agents should go for this inspection from time to time and not always the same two together, and immediate written reports of these agents should be carefully checked up and filed by the prohibition administrative department.

This same supervision should apply to the manufacture of bonded whiskies and brandies into tonics. Also a check up should be made of alcohol leaving a large wholesaler and received by a smaller manufacturing plant. Too much care can not be taken by check-ups of all stages of transportation, manufacture, and ultimate disposal of finished product. All commodities having (reasonably large) alcoholic content should be stored in warehouses under Government control and should be withdrawn only on orders from customers. This would entirely eliminate the diversion through cover houses and the possible refining of a manufactured commodity to extract the alcoholic content, as now a dealer can denature alcohol or say he has denatured it and claim shipment to any customer and the Government follows it no further. By careful supervision of the manufacture and disposition of denatured alcohol in one Federal district—i. e., the second—the withdrawals of denatured alcohol per month were reduced in one year from approximately 900,000 gallons a month to 400,000 gallons. This reduction of 500,000 had all been previously diverted to illegal uses. The average price of denatured alcohol to the bootlegger rose from $1.10 a gallon to over $5 a gallon, and with greater control exercised this price would rise much further and become prohibitive to the bootlegger. This close supervision lasted for a year. There was a let down later and the price of denatured alcohol to the bootlegger immediately dropped from $5 to around $2 a gallon, where it is at the present time.

F. The last source of alcohol into the bootleg market is through illegal stills. These are used for two purposes—one, to refine or clean denatured alcohol, and, two, to extract the alcohol by distilling a fermented product. Both of these processes are exceedingly dangerous when done on a large scale, and stills large enough to supply the demands for alcohol when the other illegal sources are cut down would have to be so large (covering thousands of square feet) that their presence could not escape the knowledge of the community, and when the people of a locality and the local authorities are taught their responsibility these stills could not be allowed to run. Some interested person would spot their existence, the fire department for fire risk, the police department for unregistered and illegal stills, and the people for lawlessness in their neighborhood. The Government should watch the disposal of products capable of fermentation and distillation and the large corporations selling their by-products for conversion into alcohol should lose the bond the Government would require them to post.

A plan adopted along these lines and carefully and consistently followed in all prohibition districts would be practical and would succeed in enforcing the prohibition amendment.

THE PRESIDENT CAN ENFORCE

By Ex-Governor Gifford Pinchot, Milford, Pa.

I

Because the problem of enforcing the eighteenth amendment is as wide as our system of Government, the head of that system is the man to deal with it. The President of the United States can control all branches of law enforcement by the Nation, and can effectively influence enforcement by all smaller political divisions, such as cities and States. No one else can.

Bootlegging is formidable to-day mainly because most of the law-enforcing agencies in America have had, and still have, no serious intention to enforce the law. The bootleggers know that the will to enforce is lacking. This is the first essential of the situation.

We have laws enough, regulations enough, money enough, and men enough to enforce the law, if they had strong purpose behind them. Only determination is wanting.

There is but one man who can supply the will to enforce on a nation-wide scale. That is the President of the United States.

Enforcement is hamstrung by politics. This is the second essential fact. The President alone is strong enough to break the alliance between corrupt politics and the organized business of bootlegging.

In law enforcement, public sentiment is vital. The detail of machinery is not. Only the President can awaken and lead a nation-wide insistence that the law shall actually be enforced.

Law enforcement involves city, county, State, interstate, national, and international questions. All of these matters can come together only in the President.

Through its permit system, the Government exercises exclusive jurisdiction over the manufacture, storage, and transportation of alco-

hol in any form. Here is the heart of the problem. Only the President can dominate it.

The Constitution is under attack at the point of the eighteenth amendment. The President has taken oath to "preserve, protect, and defend" it. The laws are disregarded. It is his constitutional duty to "take care that the laws be faithfully executed."

II

The President can enforce the eighteenth amendment and the Volstead Act up to the level of other laws by following in substance the course outlined below, every item of which has been tried out in corresponding situations by lesser executives and has been found to work:

First. By declaring publicly his determination to compel respect for the eighteenth amendment.

Second. By announcing that he will refuse to offer an appointment to his Cabinet or to any other office subject to his authority to anyone who has not before the offer given the President his or her word to obey the Constitution of the United States, including the eighteenth amendment and all laws enacted to give it effect.

Third. By giving public notice that, so long as he is President, violation of the eighteenth amendment by any public servant subject to his authority (including officers of the Army and Navy) will carry with it immediate dismissal.

Fourth. By announcing that all Federal enforcement services will hereafter be conducted wholly without regard to politics, on the basis of merit and efficiency alone, and that officials guilty of political manipulation of enforcement agents or of shielding influential lawbreakers will forthwith be dismissed.

III

Having thus notified the people that the Government takes the Constitution seriously, let the President proceed to:

Call together in the White House the heads of the Bureau of Prohibition, Customs Service, Bureau of Internal Revenue, Coast Guard, special intelligence agents, and any other Federal services concerned in law enforcement and notify them in open meeting that they must cooperate instead of acting independently, as at present; that they and their subordinates must be dry (and not only dry but efficient); and that they must begin producing results within three months or make way for better men.

Select as coordinating enforcement officer a man with large executive experience genuinely interested in enforcing the law, set him over these services as representing the President, and direct him to organize them for cooperation among themselves and with State and local enforcing authorities.

Instruct him to attack the flow of illegal drink at the source, and therefore to concentrate on the great producers of illegal drink, which are the alcohol distilleries and denaturing plants, the breweries, and on importation from Canada, and to throw the strength of coordinated forces especially against the largest offenders, many or most of whom have hitherto been protected by politics.

Call together in the White House (with the Attorney General and the Assistant Attorney General in charge of enforcement both present) all United States district attorneys, point out in open meeting that some of them have been active in enforcement and some not, give notice that all of them will be required within 30 days to give proof of activity and within three months to produce results, and make it clear that those who fail will be promptly removed. Direct the Attorney General to report the facts at the end of the 30 days, and thereafter every three months until further orders.

The known failure of enforcement in the city of Washington has immensely encouraged lawlessness throughout the country. Let the President give the Commissioners for the District of Columbia one week within which to report to him the names and addresses of all speakeasies in the District, including hotels, restaurants, and social clubs, all of which are or should be well known to the police. Let him then direct the commissioners, under penalty of dismissal, to clean up, and to report to him weekly in detail the progress made. Reports of conditions in the District should be checked for completeness and reports of results for accuracy by members of the United States Secret Service in whom the President has confidence.

IV

Let the President also—

Invite the governors of the several States to meet him in the White House, lay before them their duty under their oaths of office, remind them that the Volstead Act runs in every State, offer close cooperation from the Nation with the States in enforcing the law, and ask them to join with the President in putting public sentiment behind law enforcement.

Suggest to such of the governors as have it the use of their power to remove from office unfaithful or lawbreaking sheriffs, mayors, and district attorneys, and urge them to exercise their influence over all enforcement officials in their States, whether or not directly subject to their orders.

Invite the mayors of the hundred greatest cities to meet with him and lay before them in detail why the law is violated, how much it is violated, and how and by whom (all of which is already well known to officials of the Federal Bureau of Prohibition). Then call their attention to their individual responsibility under their oaths of office, offer them Federal cooperation in cleaning up, and ask for their cooperation in return.

Call in the leaders of the great professions, industries, and corporations, lay the situation before them, suggest to them, and ask them to suggest, methods by which they could assist not only in enforcing the law but more especially in creating public sentiment for law enforcement.

Call into conference the leaders of the churches, the dry organizations, the service clubs, the nation-wide public, semipublic, and fraternal organizations or associations, and ask for their help in arousing public support for the law.

V

Voluntary assistance of this kind has been, and can be again, extremely valuable in arousing public interest and in combating the growing false assumption that the law can not be enforced. This assumption is damaging. It needs to be destroyed.

The methods above suggested for the President in no case require action by Congress. They add nothing to the cost of enforcement, which, in fact, is far less than is generally supposed. They are legal, practical, appropriate, and within the President's constitutional duty. Part of them derive exceptional efficiency from the very great importance attached under our system to the holding of public office. Every one of them has already in similar situations been shown to be effective by the test of actual trial.

These methods reach Federal enforcement directly and at once. They reach State and local enforcement less directly and less promptly, but effectively nevertheless. Many local governments, it is true, are so corrupt that no immediate transformation is possible. Certain judges encourage lawbreaking by the mildness of their sentences. But even situations like these are affected within a reasonable time by a general awakening of public sentiment such as would follow the course here outlined. That also has been proved by experience.

VI

The eighteenth amendment can be enforced with the statute law we have. Nevertheless certain improvements are desirable. Congress, which is overwhelmingly dry, would eagerly follow the recommendations of a President determined to enforce the law. For example, an amendment to the Volstead Act is needed to make a search warrant issue on proof of manufacture of illegal liquor as well as on proof of sale, to meet the recent practice of bootleggers in putting numerous small stills in private homes instead of fewer and larger one in business buildings easier to enter under the law. Or an amendment to make it a felony to distill liquor in private houses, in which case a search warrant would not be required.

The buyer of bootleg liquor is morally as guilty as the seller. A President determined to enforce would press, when public sentiment permitted, for the passage of a law to apply the same penalties to both. When enacted, he would take care that this law also was vigorously enforced.

The Prohibition Bureau should be taken out of the Treasury Department. Whether it should be made responsible to the President directly or through the Department of Justice is less important than that the President himself should be determined to enforce the law.

If the President were determined to make the eighteenth amendment effective, many changes in the regulations under the Volstead Act would inevitably follow. Among them would be a revision of the formulae for denaturing alcohol to make denaturing less easy, and better control of so-called "completely denatured" alcohol.

The Federal permit is the key to the control of bootleg liquor at its source. About two-thirds of the hundred million gallons of industrial alcohol made under Government permit in 1927 was diverted to bootleggers. A survey to determine how much denatured alcohol is actually necessary for various industrial uses would supply knowledge which, applied by a man with a will to enforce, would go far to dry up the largest source of illegal drink.

Still other ways of reaching the situation are open to the President. For example, the free and unlimited importation of liquors by diplomatic representatives is a chief cause of the wetness of Washington. If the President, following the far stronger precedent set by the British Government years ago in the matter of slaves, should suggest to all foreign governments that he would regard it as a friendly act if they would instruct their representatives to import no more alcoholic liquors, but conform instead to the law of the country to which they are accredited, the atmosphere and attitude of official Washington respecting the eighteenth amendment would change overnight.

VII

It will be objected that the President is already too heavily burdened to undertake new tasks. The answer is that the President has no duty more essential than to defend the Constitution and to enforce the law. If something else must wait, then let it wait.

But in fact nothing need wait. For it is confidently asserted, on the basis of practical experience, that everything here outlined, and much more, can be done without absorbing 5 per cent of the President's

working time. Once it were known that the President was thoroughly determined to enforce the law, the rest would follow almost as a matter of course.

When a President of the United States makes it his personal business to see that the eighteenth amendment is enforced, and sticks to it, it will be enforced. And not before.

PLAN OF JAMES E. DAVIS, CHIEF OF POLICE, LOS ANGELES, CALIF.

All persons engaged in law enforcement activities to-day must of necessity, if they indulge in any serious thought, be deeply disturbed by the spirit of lawlessness everywhere encountered. In no direction is this defiance of law so prevalent or so bold as in the contempt shown for one of our most sacred institutions, the Constitution of the United States. This contempt for the eighteenth amendment to the Constitution is not confined to social outlaws. It extends into all branches of our national, social, and economic structure.

Persons prominent in our social life and holding positions of leadership in our professional, business, and industrial worlds seem to have no conception of the contagiously disastrous effect of their own support of an outlaw "industry." Their money gives it power, their known sympathy and patronage give it prestige in places where it should be shown no quarter.

Human psychology is such that contempt for any law, openly indulged in with impunity, breaks down respect for other laws. Defiance of the liquor statutes is menacing the very foundations of government—destroying respect for law and for the agencies charged, not only with liquor law enforcement, but with the administration of all criminal justice.

To one intimately acquainted with conditions as they now exist, the situation is sufficiently grave to demand drastic action. So long as the eighteenth amendment remains a part of the Constitution, it is imperative that its enforcement be made vastly more effective than it now is. To a practical-minded police executive that can be accomplished through the following reorganization and extension of the Federal machinery, with a consequent branching out into new lines, particularly in the direction of deliberate seeking of cooperation from State, city, and county enforcement agencies, and from the citizens at large, in groups and as individuals. It is, therefore, proposed that the Federal Government organize its activities for enforcement of the eighteenth amendment along the general lines outlined:

I. Centralization of authority in a single head, working under an interdepartmental board or in the Department of Justice.

II. Organization of the field activities by States instead of the present geographical districts, with a Federal prohibition administrator for each State, responsible directly to the general director. This State administrator would be held responsible for enforcement within his territory. One of his most important duties would be to see that cordial, cooperative, practical working arrangements are established with all local law-enforcement agencies in his territory. He would likewise be expected to have established and maintained contact with all men's and women's organizations, church groups, business associations, public-health agencies, and with individuals genuinely interested in liquor-law enforcement—working out with them a program of cooperation whereby they might act as allies by furnishing valuable information, being instructed by the Federal agents as to what is helpful and valuable and what is comparatively unimportant and wasteful of time and energy.

III. Employment of a much larger Federal force, at a higher rate of pay, with higher personnel standards.

IV. General organization: The service should comprise the following general functional divisions, each headed by an assistant director, responsible directly to the general director.

1. DIVISION OF INVESTIGATION—DUTIES

(a) To maintain a force of Federal agents whose whole time would be devoted to the detection and apprehension of persons violating the Federal statutes designed to carry out the provisions of the eighteenth amendment.

(b) To assign these agents to the State directors who would supervise their work while so assigned.

(c) To assign agents to all border and coast States for special coast and border patrols to apprehend persons engaged in importing liquor.

(d) To maintain a special picked group of undercover operators at national headquarters to be used as a highly mobile unit, subject to assignment by the general director to any section of the country.

(e) To cooperate closely with State police, sheriffs' offices, and police departments on liquor-law enforcement.

(f) To conduct training classes for new agents, giving intensive instruction in laws, rules of evidence, court procedure, etc.

(g) To hold regional conferences with local enforcement executives where mutual problems could be discussed and effective cooperative action mapped out.

2. DIVISION OF IDENTIFICATION—DUTIES

(a) To maintain at national and State headquarters record offices, where identifying data (including fingerprints) on all arrested persons shall be received.

(b) To record fingerprints and other identifying data on all persons arrested for violation of liquor laws, copies to be filed in both local and national headquarters.

(c) To exchange records on liquor law cases with State bureaus of identification, with the national bureau, with Federal and State prisons, and with local peace officers.

(d) To search files and make return to arresting officers immediately upon receipt of new records, so that they may have full information for prosecuting attorney and court of all prior arrests. (This is a very vital piece of work, entirely lacking at present, so that the heavy penalties attaching to "priors" are rendered ineffective for lack of identifying evidence.)

3. DIVISION OF PROSECUTION—DUTIES

(a) To exercise general supervision over the prosecution of all liquor law cases in Federal courts, to the end that such prosecution shall be certain, speedy, and uniform throughout the country.

(b) To assist in the prosecution of all Federal liquor law cases when in the opinion of the Attorney General such assistance is necessary.

(c) To make constant observations and report to the general director when Federal court calendars are so crowded as to cause considerable delay in the trial of liquor cases.

(d) To make constant study and analyses of the existing liquor laws and of court decisions based thereon, and to recommend to the director general such new statutes or amendments as may be required to bring about better observance of the eighteenth amendment.

4. DIVISION OF RESEARCH AND PUBLIC RELATIONS—DUTIES

(a) To secure from all State headquarters, United States district attorneys' offices, and the Federal courts statistics relative to the number of arrests for violations of the liquor law, exact disposition of each case, property confiscated, premises padlocked, cases appealed and final decision in each, etc.

(b) To secure from State, county, and city authorities similar statistics relative to arrests and disposition of cases for violations of State enforcement laws.

(c) To tabulate these figures in such a manner as to provide reliable and conclusive information as to the functioning of all parts of the machinery for the enforcement of the eighteenth amendment.

(d) To prepare and print monthly and annual statistical reports making these figures available for all interested groups.

(e) To serve as an information source for organizations and individual citizens desirous of knowing the facts about prohibition enforcement.

(f) To organize speakers' bureaus, national and State, registering persons properly qualified to speak on the subject of prohibition.

(g) To prepare and release items and articles for publication.

(h) To carry on continuously a stimulative, constructive, educational program having as its object the changing of the public attitude toward law observance through revealing the dangers to the Nation inherent in contempt for law, and

(i) To maintain a close liaison with all national organizations working in any phase of social or economic welfare.

To put the above plan into effect requires but two things, considerably increased appropriations, and securing of properly qualified persons to do the work. Both can be brought about, if persons of influence have the Nation's welfare sufficiently at heart to set to work to do so.

PRIMARILY A HEALTH MATTER

By William J. Flynn, deceased, former chief, United States Secret Service

To bring about a better enforcement of the Volstead Act, I suggest the following:

First. Since the manufacturing and dispensing of alcohol is more or less a pathological matter, I suggest that the same be taken from the prohibition department and put under the supervision of the United States Department of Health.

Second. Disband the present enforcement unit of the prohibition department and transfer the duties of the same to the Bureau of Investigation of the United States Department of Justice. This will eliminate a great deal of graft and bring about better efficiency.

Third. Empower the United States commissioners to deal with and dispose of minor infractions of the Volstead Act. This will, to a great extent, prevent the clogging of Federal court with prohibition cases.

In addition, this proposition will bring about a saving of several million dollars to the Government in the enforcement of the prohibition laws.

RESEARCH, EDUCATE, ENFORCE

By Dean C. E. Carpenter and Fowler V. Harper, University of Oregon Law School, Eugene, Oreg.

The plan herein submitted proceeds upon the assumption that no sudden and radical changes in the prohibition law or in its methods of enforcement should be undertaken until after a careful survey of the situation is made and proper foundations for such changes are laid; that a scientific and statesmanlike solution of the problem requires the cultivation of an intelligent and enlightened public opinion and the careful evolution (not the hasty enactment) of laws and of methods of enforce-

ment which will more nearly cope with the actual need. The plan we submit lays emphasis upon three matters, namely, research, education, and enforcement.

RESEARCH

Research should be undertaken by the Federal Government which will determine facts so carefully and scientifically that they will be invulnerable under the attacks of opponents of the prohibition movement.

1. PHYSIOLOGICAL AND ECONOMIC

These facts should embrace—

The physical and moral effects of alcohol.

How far the present prohibition movement in those phases of it where it has been most successful, has proved beneficial to industry.

How it has affected the laboring man and his family and how far it is responsible for the improved general welfare and prosperity of the United States.

Such information is essential as the basis for creating a sincere, widespread, and effective desire and sentiment for a more thorough enforcement of the prohibition law.

2. SOCIOLOGICAL

This research, too, must develop fearlessly the facts with respect to the relation which prohibition has to crime:

Has drunkenness increased or diminished under the prohibition law?

How has the consumption of liquor been affected?

Has there been an increase of drinking among the young?

Has it increased or diminished crime other than those crimes involved in the violation of the prohibition act?

Does it tend or does it not tend to conduce to growing disregard of law generally, especially among young people?

Have habitual criminals drifted into bootlegging as an easier and more profitable occupation?

Is bootlegging used to finance other crimes?

What are the sources of the illegal liquor; how far imported; at what particular points and by what methods is this importation effected?

How far is liquor diverted from legal channels and by what methods?

How far is it illegally manufactured?

Where are the tools and instruments for this manufacturing made?

3. ADMINISTRATIVE

What phases of the enforcement of the prohibition law have been weakest?

At what points is there a lack of sufficient number of enforcement officers?

Which officers have been inefficient?

How far have faulty methods of detection been responsible for inefficiency?

How far and just where have the crowded dockets of the courts been responsible for delays in prosecuting offenders of the liquor law?

How far has there been miscarriage of justice?

How far will an increase in the number of judges be desirable?

Should the jurisdiction of the added judges extend beyond liquor cases?

How far can the elimination of cumbersome procedure help the situation?

4. EXPERIMENTAL

In this connection several courts should be set up, operating under the various procedural reforms which have received the sanction of the more enlightened and progressive members of the bar. These should function alongside other courts having the usual procedure. Conditions in the two courts should in other respects be parallel, so that the result will be that of a controlled experiment. To illustrate, alongside a court with enlarged powers of control over the course of the trial vested in the judge as, for example, the power of examining witnesses, juries, and commenting on the evidence, or alongside a court without a jury, or with a public defender, a court could operate with the ordinary procedure—jury trial and with the usual defense attorney. A number of experiments of this sort could be concocted which would give information when the results in the two courts were carefully compared and tabulated that would be reliable and invaluable to law enforcement generally and be of especial aid in the enforcement of the prohibition law.

Without information which the proposed research would reveal, all changes in the laws and in enforcement methods will be haphazard and merely guesswork. With such information the proper ground is laid for the creation of a desire for law enforcement and a basis established for engineering and enforcement of the law and of adapting the law and enforcement methods more adequately to the actual situation.

Education

The Federal Government should publish these findings in Government bulletins similar to those now issued by the Government in other fields, and this information should be widely disseminated from teachers' journals, popular periodical magazines, the daily press, the movies, the radio, and lectures. The greatest care should be exercised to secure accuracy in all these representations made to the public. It is especially desirable that this information should be available to educational institutions, scholars, and research organizations in every part of the country and disseminated among public men and the leisure class, which class seems so largely responsible for the sentiment against the prohibition act.

Enforcement

While this research is going on and this information is being disseminated greater effort should be made to enforce the prohibition law, particularly with respect to its importation, diversion, manufacture, and distribution.

1. The Federal Government should increase very extensively its forces devoted to the enforcement of the law, both in the police and judicial departments.

2. Greater care should be exercised in the selection of the enforcement officers. It would seem desirable not to select persons merely on the basis that they want the job and can pass the civil-service examination, as is now required, but the Government should go out and get men who are absolutely honest, able, and zealous for the enforcement of the law, although they have to pay larger salaries for such men.

3. These men should be subject to the civil-service examination, and after they have been once selected they should be brought together and given careful and special training for their work of enforcing the law.

4. In States like Montana and New York, where the States have no enforcement act, the Federal Government should increase its force far beyond that which it now has and should pay particular emphasis to enforcement of the law with respect to importation, diversion, manufacture, and distribution, and use every other method which it has found feasible and effective in its experience during the last 10 years.

5. Without waiting for the results of the research outlined above, several methods for avoiding delay in the handling of cases in courts could be adopted. Criminal matters should be given preference in the trial of cases and hearings and appeals should be advanced to the earliest possible moment.

6. It is obvious from the experience of the past 10 years that the Federal Government can not possibly administer criminal laws which affect so great a number of people all over the United States without the earnest and honest cooperation of the enforcement officers of the States. We, therefore, suggest the following machinery of cooperation.

(a) Congress should give concurrent jurisdiction to State courts and authorities to administer the Federal criminal law pertaining to prohibition. It now excludes such jurisdiction. The States, on the other hand, after Congress signifies its willingness to permit such concurrent jurisdiction, should make the same mandatory. The best technical thought is unanimous that there is no "inherent impossibility" involved in establishing such concurrent jurisdiction.

(b) All States should then follow the example of Oregon in making it the duty of local authorities to issue search warrants in liquor cases and warrants for arrest of persons accused to Federal enforcement officers. (Session Laws, 1923, ch. 180.)

(c) The Federal Government should, if the States are endowed with power to enforce Federal laws, render financial assistance to the State in enforcing the Federal (and State) prohibition laws. This might be done by the Federal Government's paying two-thirds of the salary of an assistant State prosecutor in such counties as should provide the balance of the official's salary. This officer would be a State and not a Federal authority. He would be concerned exclusively with prosecuting violators of the prohibition laws, both State and national, for under such a system the States would be charged with the enforcement of the law of the land in the same measure as the Federal Government.

PLAN OF THOMAS H. NOONAN, SUPREME COURT JUSTICE, BUFFALO, N. Y.

In the competition for the prize of $25,000 offered by Mr. C. W. Durant for the best and most practical plan to make the eighteenth amendment effective I submit the following:

By this amendment "the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to jurisdiction thereof, for beverage purposes, is hereby prohibtied." The second section provides that "the Congress and the several States shall have concurrent power to enforce this article by appropriate legislation."

To make this amendment effective Congress passed the national prohibition act (Volstead law), and both the amendment and the enforcement act became effective January 16, 1920. The first section of the amendment is operative throughout the entire territorial limits of the United States, binds all legislative bodies, courts, public officers, and individuals within those limits, and of its own force invalidates every legislative act—whether by Congress, by a State legislature, or by a Territorial assembly—which authorizes or sanctions what the section prohibits. (National Prohibition Cases, 254 U. S. 350.) By this amendment Congress acquired the same police powers to stamp out the manufacture, sale, and transportation of liquor in both inter-

state and intrastate commerce that the States had before the amendment. (U. S. *v.* Cohen, 268 Fed. 420, 425.) In other words, by the amendment Congress acquired a police power to enforce prohibition by all reasonable laws and regulations which only the States had before the amendment. (Schnitzler *v.* Yellowley, 290 Fed. 855.) Where this amendment conflicts with an older provision of the Constitution the older must yield. So that the eighteenth amendment, in part, supersedes the fifth amendment. (Corneli *v.* Moore, 267 Fed. 456.)

Primarily, two things are necessary for the proper enforcement of any law. First, the law must be so clearly drawn that it can be effectively applied to suppress the crime; and second, it must be enforced by honest and capable officials.

By the clear language of the second section of the eighteenth amendment Congress and the individual State have the same power to make the eighteenth amendment effective, and it is just as much the duty of the one as the other to enact the necessary legislation to make the amendment effective.

Without doubt the most effective means of law enforcement lies within the State itself, because it is already organized to enforce all laws. There exists in every county in every State the machinery for such enforcement, and most localities there are already sufficient police officers to properly secure the necessary evidence for successful prosecution. Furthermore, the law can be enforced in the county where the crime is committed without compelling witnesses and the prosecuting officials to travel great distances, and it enables the public opinion of the county to impress itself upon the enforcement officials; and the State law can prevent double jeopardy by providing that there shall be no State prosecution after a prosecution under the national prohibition act.

To get satisfactory results in the enforcement of any law there must be quick prosecution and sure punishment. The dissatisfaction that has arisen in some parts of the country over the apparent failure of the national prohibition act to produce results is due not to any defects in the statute, which was carefully drawn and is adequate for its purpose, but to the glaring lack of proper machinery for its enforcement.

First. There are not enough Federal enforcement officers to gather the evidence and attend to the prosecution of the offenders arrested.

Second. There are nowhere nearly enough judicial officers to dispose of the business that even the present number of Federal agents are able to bring in.

Third. The United States district attorneys do not have the proper number of assistants to adequately enforce the law, and the salary provided for these assistants is not such as to attract young men of the right caliber.

Fourth. Antiquated methods of procedure are still relied upon. Methods of criminal procedure that were adequate for the days of the oxcart and blazed the trail are being relied upon in the age of the automobile and flying machine. Outgrown rules of evidence that are no longer followed in the States are in effect in the United States courts, and enforcement officers and prosecuting attorneys are forced to travel long distances from the place of the crime to reach a tribunal that can properly dispose of their cases. Other defects could be mentioned, but these are the most important ones.

The remedy is obvious.

First. Provide a sufficient number of enforcement officers to properly cover the territory, especially in States that have large cities, and in those States that have no enforcement act of their own.

Second. Provide a sufficient number of tribunals for the trial of cases so they can be speedily tried and disposed of. This can be done by providing enough judges to hold courts not only in the larger centers of population but in the rural counties, and the United States commissioners might be empowered to try and dispose of all first offenders at the option of the United States district attorney. One or more could be appointed in every county and thus be within easy reach of the enforcement of the officers.

Third. A sufficient number of assistants should be given each United States district attorney to enable him to prosecute effectively the cases arising in his district, and the salary of such assistants should be such as to attract able and ambitious young lawyers.

Fourth, use all competent evidence, no matter how obtained. This is the long-standing rule in New York (Peo. *v.* Chiagles, 207 N. Y. 193, 198) and also in most of the other States, and was once the doctrine in the United States courts (Adams *v.* New York, 192 U. S. 585). As far as possible, make all acts of the defendant prima facie evidence of guilt. Make the enforcement procedure as simple as possible. Grant no bail to second offenders when the previous offense is undisposed of through no fault of the prosecuting attorney. Interpret the Constitution so as to aid in the prosecution of all offenders. It was never intended as a shield behind which evildoers could find protection; in brief, simplify and strengthen procedure for enforcement.

In judging the efficiency of the efforts to enforce the eighteenth amendment, we should bear in mind that there are very many violations of all criminal statutes that remain undetected and unpunished. So perfection can not be had in the prosecution of prohibition cases.

Remember, also, that those who violate certain United States statutes, such as the Dyer Act relating to stolen automobiles, the Cormack Act relating to stealing from interstate freight trains, and the Harrison Act to control the sale of narcotics, can also be prosecuted under State laws and are thus subject to double jeopardy.

To sum it all up: The eighteenth amendment can be made as effective as any other law, when all the States and Congress provide suitable laws and procedure and honest and competent officials to enforce the same.

Pledge All Executives for Observance and Enforcement

By C. O. Sherrill, city manager, Cincinnati, Ohio

THE SITUATION

The eighteenth amendment became effective on January 16, 1920. It provides as follows: "The manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited. The Congress and the several States shall have the concurrent power to enforce this article by appropriate legislation."

The national prohibition act (the Volstead Act), passed October 28, 1919, became effective on January 16, 1920. This act defines "liquor" as "alcohol, brandy, whisky, rum, gin, beer, ale, porter, and wine, or other beverages containing one-half of 1 per cent of alcohol or more." All persons are by this act forbidden to "manufacture, sell, barter, transport, import, export, deliver, furnish, or possess any intoxicating liquor" except as authorized by the act itself. It is made unlawful to ship liquor without notifying the carrier; or for the carrier to accept same for shipment unless certain requirements named in the act are carried out. Nonintoxicating cider and fruit juices may be manufactured for use exclusively in the home. The law also permits denatured alcohol and medicines not fit for beverages purposes using alcohol as a solvent. Since the passage of the Volstead Act all the States, except five—New York, Maryland, New Mexico, Nevada, and Montana—have passed enforcement acts under the concurrent authority of the eighteenth amendment.

The amendment has been operative for almost nine years and notwithstanding the open or veiled opposition to prohibition by a large part of the press and many leaders of public thought, there has been a considerable measure of success in decreasing the drinking of liquors, as indicated by the almost total absence of drunken persons on the streets of our cities, and by the tremendous decrease in withdrawals of liquor from bond since the amendment went into effect. While there is a great deal of surreptitious drinking, particularly by the young of the wealthier classes, it must be conceded even by the enemies of prohibition that on the whole, the drinking habit has been greatly reduced, with a resultant raising of the standard of living of the American laboring classes.

The evil resulting from inefficient enforcement is not so much the amount of drinking being done (except in several large cities where local authorities make no effort to enforce the law) as in the contempt for all the laws of the land by part of the press, by a small percentage of the public, particularly the young of the well-to-do classes, and by bootleggers. It is this contempt of law that must be replaced by enforcement and observance of the prohibition laws and the eighteenth amendment.

THE PLAN

The plan to make the eighteenth amendment effective in order to be practicable must use to the best advantage all existing facilities and suggest such feasible additions and modifications as necessary to carry out the full intent of the amendment.

The plan must include a program centering in the President of the United States (a) of enforcement and (b) of observance.

ENFORCEMENT

This must be a coordination of (a) national and (b) State (including county and municipal) enforcement agencies and methods.

NATIONAL ENFORCEMENT

This must operate under the direct control of the President, using all resources of the Government necessary to make it completely effective. The principal existing agencies are (a) the Bureau of Prohibition Enforcement, Customs Service, United States Coast Guard, United States Coast and Geodetic Survey; United States Secret Service; the Public Health Service (quarantine); and (b) in the Attorney General's Office, the prohibition enforcement branch directing and coordinating the activities of all the United States district attorneys relating to the enforcement of prohibition throughout the United States, so as to present the enforcement cases in harmony with policies of the President.

The major policies of enforcement should be enunciated by the President himself to give the greatest prestige and backing before the courts and before the country, and to make it definitely known that the Government is determined fully to enforce the eighteenth amendment and the laws passed pursuant thereto.

The President should make full use of the Diplomatic and Consular Services in extending agreements with foreign powers in order more

effectively to prevent all smuggling of liquor into the United States over any of its borders. He should also use the resources of the Immigration Service and the Customs Service to aid the Consular Service in detecting all the sources and stopping shipments made from foreign countries with or without the sanction of their respective governments into the United States.

The President should, by negotiation with foreign powers, if possible, and if not by legislative authority, stop the importation of liquors into the United States for use at diplomatic missions and consulates. This is a vitally necessary step not only to stop a serious leak in the preventive measures against smuggling, but absolutely essential to prevent the serving of liquors by diplomatic officials which now sets such a demoralizing example to the American social world.

It is assumed that the President will use the existing organizations and facilities to the fullest extent, and that in view of the results of the recent election he will be given by Congress, on request, such additional means and facilities as he may require effectively to carry out the Government's enforcement program, and to carry out such local, State, and county enforcement as is not in any case being properly handled by these respective authorities.

SCOPE

The national program of prohibition enforcement will be aimed at—

(1) The complete stoppage of smuggling liquors into the United States and its possessions, using all the necessary means and methods and services as outlined above. This work will include a more effective protection of our coasts and will be carried into foreign countries to the source of shipments into the United States.

(2) The second division of the national enforcement program will be devoted to the stoppage of all interstate shipment or carriage of liquors by rail, vehicle, aircraft, water craft, or individuals through the requirement of manifests of all goods transported between the States, by adequate inspection and supervision of all such shipments, and by adequate criminal and civil penalties for violations.

(3) The third division of the national enforcement program will be devoted to the stoppage of intrastate shipments of liquor between cities and towns by train, vehicle, aircraft, or other carriers, where such activity is not effectively controlled by the respective States. The penalties for the violation of the laws relating to smuggling, to interstate shipments, and to intrastate shipments of liquor should include confiscation of equipment used in such traffic and heavy fines and imprisonment of those guilty of such illegal transportation.

(4) The next division of the national enforcement program will be devoted to the prevention of the sale of liquors and the furnishing of "set-ups" in restaurants, hotels, inns, road houses, clubs, and homes, or the carrying of liquors into public places on penalty of having them padlocked, through actions of the United States courts, to enjoin and abate such as nuisances. These actions to be in addition to criminal trials of all offenders against the laws.

(5) The next division of the national enforcement program will be devoted to the more effective control and supervision of the source of supply of liquors and surveillance of permits and permittees, and of all liquors released from bond from the time they leave the Government warehouse or Government licensed manufactory until they are distributed to the ultimate consumer. The failure to keep a record of liquor issued on permit until it reaches the final consumer has been a great cause of abuse. This can be prevented by a complete chain of receipts similar to those used by the Post Office Department for registered letters. The use of doctors' prescriptions has been greatly abused. These should be carefully supervised from doctor to patient.

(6) The next division of the national enforcement program will be directed to a more perfect control and greater restrictions on the use of alcohol in medicinal preparations, under the Volstead Act forbidding these "unless unfit for beverages," and limiting them rigidly to the "minimum required for solution and preservation of the medicinal elements in articles." There are now on the market many medicinal articles supposedly unfit for use as beverages but which have not been rendered so unpalatable or nauseating as to prevent them from being largely used as beverages. These should be rendered practically impossible to drink in such quantity as to be intoxicating, and their sale should be so controlled as to assure that they will not be so used. This division should do extensive research work to discover more perfect methods of making solvents without the necessity of using intoxicating liquors or alcoholic compounds, and to discover more effective methods of making medicinal preparations unfitted and unpalatable for beverage purposes.

(7) The next division of the national enforcement program will be directed to the amendment of the Volstead Act, to prevent the nullification of the eighteenth amendment now caused by the act in allowing "nonintoxicating cider and fruit juices in the home." This provision of the Volstead Act, put in at the demand of the apple and grape growers, allows extensive evasion of the plain intent of the eighteenth amendment. This authority causes abuses by serving as a cloak for traffic in liquor, in and from private homes, and also arouses hostility at the invasion of the home by officials endeavoring to prevent the traffic in liquors which are legally possessed under the act.

The abuse of this right to make cider and fruit juices is so flagrant that manufacturers of these articles are now putting on a widespread campaign of advertising, saying that they sell and deliver the nonalcoholic beverages allowed by the law which, under a simple treatment, will, in a short time, become "fine intoxicating wine and cider."

STATE, MUNICIPAL, AND COUNTY ENFORCEMENT

This branch of the enforcement program should handle all local violations of State, local, and national laws, and conspiracies to violate them, through the manufacture, sale, possession, and transportation of liquors by small groups and individuals. With effective enforcement of the national laws designed to carry out the intent of the eighteenth amendment and with the control of the large organized violations by the Government as outlined above, the State and local enforcement can readily be accomplished, since the local violations will be by the small groups and individuals.

The effective enforcement of State and local laws requires that all executives, beginning with the governor and extending through county and municipal executives, sheriffs, police, judges, particularly municipal judges, shall be pledged in advance of appointment or election to the program of enforcement. As in the national program of enforcement, the President is the center and heart of the plan; so in State and local enforcement, the governor is the head and controlling element. He should be pledged faithfully to enforce the prohibition laws and to see that they are enforced by all executives and courts in his State This power is now in the hands of the governors and only requires the impetus that can be given by the President to secure its general application. The national program is absolutely in the hands of the President through his power of appointment and removal of executive officials and his power of appointing judges pledged to enforcement and observance. Political patronage should have no hand in the appointments of executive officials, judges, or employees engaged in prohibition enforcement in National, State, or local enforcement. Merit and, above all, integrity, should be the sole determining factors.

OBSERVANCE

In this branch of the effort to secure compliance with the eighteenth amendment there has been a deplorable lack of initiative and leadership; in fact, there has been practically no effort made by those in authority within or without the Government to build up a willingness and a desire to observe the amendment on the part of the individual citizen. No appeal to the public has ever been made by the President for all good citizens to join in observing this law.

Every effort put forth has been limited to enforcement that is compulsion. A tremendous mistake has been made in this failure of leadership in not securing the backing of the public at large and the press to make of this experiment in social betterment a complete success. So little attention has been paid to observance by high officials, by leaders of civic business thought in each community, and by the press that it is the exception rather than the rule for individuals to refuse to drink or to serve liquors. Practically no effort has been made by the press to influence public opinion in the vitally important matter of personal observance; in fact, the majority of editors have expressed an open contempt for the enforcement and even more for the observance of the law on this subject. The recognized leaders of the civic and business world, and high Government officials, who have everything to gain by strict enforcement and observance on account of the destructive effect of their failure on the Nation's stability, have done nothing toward observance, but, on the contrary, in most cases, have in private at least flagrantly violated the intent of the law. In this branch, as in enforcement, the leadership must be taken by the President in molding public opinion in favor not only of enforcement but also, and more especially, of observance—that is, personal compliance with the spirit and intent of the law and the eighteenth amendment by refusing to serve or drink intoxicating liquors at any time and by exerting strong personal influence to build up a spirit of law observance. In view of the recent mandate of the people of the United States given in no uncertain terms, that they are determined to have the eighteenth amendment observed, the President is more than ever before called upon to take the aggressive leadership in this vitally important matter.

METHOD OF SECURING OBSERVANCE

To set in operation this movement for nation-wide observance, the President should call together a group of the leaders of the country in business, political, and civic life and initiate through this group a national organization, with branches in every State, pledged to observance and to the securing of observance by the mass of decent citizens of every community, with the same enthusiasm employed by the Anti-Saloon League in supporting enforcement. The governors of each State should be the natural leaders of this organization in their respective States.

Under inspiring leadership for observance and enforcement, the eighteenth amendment can be made complete effective; and the present undermining of the foundations of our American institutions can and will be replaced by an aggressive rebuilding of the damaged bulwarks of our national respect for law and order.

EDUCATE PARTY LEADERS

By Henry O. Evans, Pittsburgh

Abraham Lincoln once said, "No law is stronger than the public sentiment where it is to be enforced." Our entire history since Colonial days is abundant proof of the fundamental correctness of this axiom. Any plan, therefore, to make effective the eighteenth amendment rests upon the sanction of public sentiment and opinion with respect to the amendment.

The prime necessity of sound planning in every aspect of life and as to any problem is, always, accurate knowledge and impartial marshaling of all the facts governing the case. We have had too much opinion and too little fact-finding on both sides of this very controversial question. The reliable evidence—the dry laws of 33 States before the approval of the amendment; the ratification of the amendment by all but two States; the votes upon such State referendums as have been taken; the progressive increases in dry majorities in both Houses of Congress; the results in the recent election of President and Vice President, Members of the Congress, and State offices—all goes to show the existence of considerably more than a majority of our voters in favor of the amendment.

In spite, however, of this weight of the evidence, it is generally said and by many believed that public sentiment is not now favorable to the amendment. Since, as Lincoln also said, "A universal feeling, whether well or ill founded, can not be safely disregarded," positive and unequivocal demonstration of the present existence of public sentiment in the minds and actions of more than a majority of our voters in favor of the amendment is the first step in any practical plan for its effective enforcement. Our first proposal is, therefore, the holding of referendum votes in each of the States, by congressional districts, with ballots sufficiently detailed in the questions submitted to register every shade of public opinion. It goes without saying that the question must be fairly framed, without leaning toward either side, so as not only to answer the doubt already raised as to the conclusiveness of some of the referendums heretofore held but also to elicit the fullest possible participation by the voters.

But more is needed than the more demonstration of the existence of the favorable majority which the evidence before referred to leads us to believe already exists. Those who were active in support of the passage either of State dry laws or of the amendment itself must be brought to realize that their active cooperation is just as necessary now as before. The danger which lies in systematic, widespread, law-breaking must be enforced upon those who, while themselves total abstainers, have been passive and indifferent to the actions of others. No law which alters so radically as this the habit of years is self-enforcing, and its friends must be as positively for it as its opponents are against it.

The practices of those who are still users of intoxicating liquors must be changed to personal observance of the law in spirit and letter. Some of these have been rationalizing their breach of the law by claiming that the amendment does not have that consent of the governed which is necessary in practice under our theory of law. The proof we have before outlined will demolish this defense.

In times past total abstinence was not essential, it was enough if the individual was temperate; but the passage of the amendment has converted failure by any citizen to practice total abstinence into his personal attack upon the foundations of good government. Since the majority of our citizens are, as they must be at heart, law abiding, it follows that they can be awakened to the danger which lies in their failure to observe the law if the proper methods are used. Public sentiment can best and most effectively be aroused by persuasion to general willing cooperation in personal observance of the law as a rule of individual conduct. During and since the great war we have had striking proof of the wisdom and efficacy of persuasion as contrasted with force.

The movement must embrace, to be effective, every sort and condition of our people so that the common reproach that those who have the greatest incentives to law observance are the greatest offenders may be removed. The question must be presented from every angle; on moral grounds, from the standpoint of social and economic welfare, the danger to our form of government. The facts, developed and set forth by agencies so impartial and inclusive as to be divorced, in the public mind, from any suspicion of desire or necessity to bolster up a theory, must be put into the hands of everyone.

The older generation has had personal experience of the gross abuses of free sale of intoxicating liquors and of the failure of regulation. The present and coming generation are less likely to admit the danger of that which they have not seen and experienced and their education is especially necessary both as to the facts of former times and by comparison with present conditions.

The plan, as so far outlined, is directed toward demonstration and mobilization of willing, voluntary, cooperation acting positively for personal, individual support and observance of the law. The methods suggested are those of persuasion and education, based upon fact-finding, addressed to the vast majority who, when the conscience is aroused, desire to do the right. But there remain outside of these two great classes of active opponents, those who prefer the gratification of selfish appetite to the general will and good and those who are willing to pander to these selfish instincts for one or another reason. As to both of these classes force is the only practical method.

As to the first of these classes, the present practice is weak in that it treats the buyer as less guilty than the seller. This is illogical because, as a rule, the majority of buyers, by education, background, and standing in the community, know the right, and because of that fact should be charged with a greater responsibility and treated with greater severity than now obtains. A change, both in legislation and practice, which would make the buyer equally guilty and vulnerable with the seller would automatically bring about elimination of most of the law breaking. After the lapse of eight years, in but few cases is liquor lawfully in the hands of the individual citizen. The burden of showing that his possession is lawful should be cast upon him. Changes in the law and practice on these two points would eliminate one of the greatest hindrances to enforcement of the amendment.

Perhaps the greatest hindrance to enforcement is the alliance widely existing between the local police officials and the bootlegger. It is a common theory of party politics that the party "machine" can not be maintained except by the expenditure of large amounts of money. It is, unfortunately, too common for those in high command of party politics to wink at payment by the bootlegger to those who are doing the routine work of the "machine." No more valuable and effective work can be done by a mobilized and aroused public sentiment than the education of party leaders who believe in or yield to such false premises. They must be convinced that such a price paid for party success is too great and too damaging both to the party and to the general good. Again, education and persuasion are the indicated methods. If education and persuasion, backed by public sentiment, do not succeed in ending this alliance, public sentiment for expulsion from power of those who persist in such a ruinous policy must, finally, be the plan.

With respect to those who make a business of breaking the law for profit, no plan but rigid, unrelenting prosecution is of any use. The demonstration of an active, positive, virile public opinion backing enforcement, as already outlined, will be of great help to those charged with the duty. Since, as Benjamin Franklin said in another connection, "A poor system of government with good administration is preferable to a better system with weaker administration," coordination of all the instrumentalities and agencies dealing with the enforcement of the amendment under the Department of Justice is proposed. Many reasons can be urged for this change. As the department ultimately charged with prosecution, concentration of responsibility is in line with all modern practice. In addition, our whole experience has trained us to yield to law officers. Not the least of these reasons is the fact that lawyers are trained to give no thought to arguments concerning the wisdom, expediency, or merit, in themselves, of the laws which they are called upon to administer, and, therefore, we should have less of a temporizing questioning policy in administration than has been sometimes shown. We should have, also, the advantage of the incentive arising from professional pride in work well done.

Along with this coordination of agencies should go acceleration of the trial of cases. Arousing public opinion favorable to the amendment would lead in most States to renewed activity among the State and municipal officers for fulfilling their concurrent responsibility and greater use of State courts so that increase in the Federal judiciary would, to that extent, not be required. But if required, additional judges and ample funds for all additional necessary, competent personnel should be quickly granted. We have put our hands to the plough and the experience of England with speedy trials leaves no ground for argument as to our necessity for improvement in this regard.

Concretely, it is proposed that the plans herein outlined shall be carried out by and through a national society or organization in support of the amendment, the members to be enrolled from every element of our diversified population without distinction as to race, color, religion, or station in the community. The platform or purpose of this organization should be broad enough to enlist the support of all who favor law observance for any and all reasons, whether moral, social, economic, or governmental. Membership should involve a personal obligation, not only to a strict individual observance of the amendment, but, also, militant support of all dignified methods evolved by the officers of the organization for aiding law enforcement.

As outlined, the primary method should be education and persuasion in all their many forms, since public opinion and sentiment can only be led and not driven—with force, however, as a last resort. Having enlisted the support of those who now contend that the amendment was rushed through without due consideration; of those who were always convinced of its wisdom but indifferent in its support; of those selfishly preferring appetite to observance but now awakened to the damage caused by law breaking, mobilized public sentiment, bringing about or forcing a divorce of politics from bootlegging, will, behind more efficient legal methods and organization, result in making effective that "noble experiment," the eighteenth amendment.

PLAN BY WILLIAM H. SAWTELLE, UNITED STATES DISTRICT JUDGE, TUCSON, ARIZ.

As is well known, the national prohibition act was enacted in pursuance of the eighteenth amendment. Under the provisions of that act the Treasury Department and the Department of Justice are charged with the duty of enforcing the same. It has been suggested that the Treasury Department be relieved of all responsibility for its enforcement and that the entire responsibility be placed upon the Department of Justice. Those who make this suggestion overlook the fact that the act in many respects is a revenue measure, and that that feature of the act, at least, properly belongs under the jurisdiction of the Treasury Department.

Section 2 of the national prohibition act provides: "The Commissioner of Internal Revenue, his assistants, agents, and inspectors, shall investigate and report violations of this act to the United States attorney for the district in which committed, who is hereby charged with the duty of prosecuting the offenders, subject to the directions of the Attorney General."

The best and most practicable plan to make the eighteenth amendment effective would be for all State and municipal officials to cooperate whole-heartedly with the Federal Government in the enforcement of the national prohibition law. The time will come when the law-abiding citizens of the various States will demand of its officials such cooperation. Until such time much can be done to make the amendment effective.

To that end I recommend:

First. That only such State and municipal officials who are concerned with the enforcement of the criminal laws be selected as are whole-heartedly in sympathy with the spirit of the eighteenth amendment.

Second. That the first paragraph of the national prohibition act be amended so as to read as follows: "Any person who manufactures or sells liquor in violation of this title shall be fined not more than $1,000 or imprisoned not exceeding one year, or both, and for a second or subsequent offense shall be fined not less than $200 nor more than $2,000 and be imprisoned not less than one month nor more than five years."

The penalty now prescribed for the first offense of sale and manufacture of liquor is, in many cases, wholly inadequate. The penalty for a second or subsequent offense is ample.

Third. That the second paragraph of said section be amended so as to read as follows: "Any person violating the provisions of any permit, or who makes any false record, report, or affidavit required by this title, or violates any of the provisions of this title, for which offense a special penalty is not prescribed, shall be fined for the first offense not more than $500 or imprisonment not exceeding one year or both; for a second or subsequent offense not less than $200 nor more than $1,000, and be imprisoned not less than one month nor more than five years, or both."

The punishment now prescribed for the first and second offenses of transportation and importation is also inadequate. One may unlawfully import, possess, and transport, as often occurs, truck loads of liquors. For the first offense the maximum penalty is a fine; for the second offense the maximum penalty is a fine or imprisonment for not more than 90 days. Such light penalties do not serve as a deterrent. They are by the lawless element considered as a license to continue in the liquor business. Experience has demonstrated that, if this law is to be enforced, more severe punishment must be meted out to the offenders thereof.

Fourth. That the Attorney General appoint in each judicial district at least two additional assistants to the district attorney, whose sole business shall be to consult with and advise the agents of the Treasury Department and the United States commissioners as to their respective duties, and to prosecute all violations of the national prohibition law. Such special assistants should be able and experienced lawyers and residents of the district for which they are appointed. They should be given absolute control of all such prosecutions, subject only to the Attorney General. The agents should be required to consult such special assistants before obtaining a search warrant, thus guarding against unlawful searches and seizures, which have tended to bring the law into disrepute.

Only those who really believe in the eighteenth amendment should be employed for the purposes mentioned. The fact that they believe in the enforcement of all laws should not suffice. We have too many prosecutors of the latter type. It is impossible for the district attorney himself to prosecute all violations committed and triable within his district, and of necessity he must rely upon his assistants, many of whom are young, inexperienced lawyers who accept the office temporarily merely for the opportunities afforded them of acquiring experience at the bar. With rare exceptions, they are wholly unprepared to cope with experienced lawyers representing the accused, and the result is what might be expected. These inexperienced, poorly paid young men are not capable of properly representing the Government. They do not know when they have a strong case or how to present it in court. It is my opinion, in trying prohibition cases in my own and other districts in the ninth judicial circuit, this failure to have the Government represented by experienced prosecutors, together with the failure of the State and municipal authorities to cooperate with the Federal Government, is the outstanding cause of the failure of the national prohibition act and the eighteenth amendment. With experienced counsel in charge of the prosecution, a greater number of convictions would be secured, and the law-abiding element would learn to respect, and the lawless element to obey, this law.

Competent prosecutors would, of course, command a salary larger than that paid the regular assistants, but the results would more than justify the extra expenditure. Doubtless Congress would willingly make the necessary appropriation to enable the Attorney General to carry out this plan.

Both the amendment and the prohibition act are fundamentally sound. The trouble is they have not been given a fair trial.

Fifth. That while these direct efforts are being made to enforce the eighteenth amendment, a nation-wide campaign, carefully planned and directed, be carried on through the newspapers, periodicals, schools, pulpits, and homes to build up a sentiment for obedience to and respect for the laws of our country. Or, as the immortal Lincoln has expressed it: "Let reverence for the laws be breathed by every American mother to the lisping babe that prattles on her lap; let it be taught in schools, in seminaries, and in colleges; let it be written in primers, spelling books, and in almanacs; let it be preached from the pulpits, proclaimed in legislative halls, and enforced in courts of justice and, in short, let it become the political religion of the Nation, and let the old and young, the rich and the poor, the grave and the gay, of all the sexes and tongues and colors and conditions sacrifice unceasingly upon its altars."

FOSTER THE WILL TO ENFORCE

By Orville S. Poland, Counsel New York Anti-Saloon League

The enforcement of prohibition can never be a matter of mere mechanics. It is essentially one of spirit. The morale which is the basis of the efficient, successful handling of any other administrative problem must underlie the enforcement of prohibition. This spiritual impetus will furnish the dynamics and the mechanics will follow as a matter of course. Law is never self-operative. It functions only when translated into human activity. This translation can come only as an expression of human will represented in the courage, devotion, and resourcefulness of those charged with the duty of enforcement, and the loyalty and good citizenship of the citizens to whom the law applies.

The necessity of statutory and regulatory machinery as tools in attaining the principal end of a legislative and administrative policy is undeniable. But, assuming fairly adequate machinery, the prime essential is one of spirit. It might be argued, for example, that, inasmuch as the diversion of denatured alcohol is the chief sources of illicit liquor, all denaturants should be added at the time of distillation instead of facilitating diversion by permitting the transportation of alcohol to a number of denaturing plants with attendant increased difficulty of supervision. The answer is that this is a matter of administrative detail.

This matter of morale is bilateral. It has two phases—the one active, the other passive; the one represented by the officers of the law, the Government; the other by the great mass of our citizenry, the people. These phases in many cases overlap and perhaps can never be completely separated. Their influence is nearly always to some degree reciprocal. When officers fail to enforce the law, it is because they have not the support of public opinion. This support is denied because of a belief that the officers are inefficient or venal. With a due recognition of these reciprocal influences it is possible and desirable to consider the two phases separately in the confidence that an improvement in either phase of the problem produces a corresponding improvement in the other.

The second passive phase relates to the acceptance of the law and is outside the scope of this paper. But before considering the first phase mention should be made of the relation of the responsibility of the Federal Government and the States. The eighteenth amendment did not make the Federal Government solely responsible for enforcement. The amendment reserves enforcing power to the States. Various contentions have been advanced as to whether the States have any obligation—legal or moral—to enforce prohibition. For the purpose of this discussion these distinctions are largely academic. We must not fall into the error of believing prohibition a purely Federal matter. The States did not vacate their power to act in the premises when they delegated power to Congress to pass enforcing legislation. They reserved full power to act, limited only by the provisions of the fifth article. No discussion of this subject which treats of Federal functions to the exclusion or neglect of the power of the States can properly cover the ground. It is impossible here always to differentiate but this discussion is intended to be flexible enough to apply indifferently to Federal and State officials.

Can any one doubt the immediate salutary effect on enforcement if the Executive chiefs—President, governors, mayors—entertained the same attitude of determination toward enforcement that they might as executives in an industrial organization toward their peculiar industrial problems? Imagine the electric effect if the President should

tell the Secretary of the Treasury that his tenure depended on his ability to show results; if the mayor should tell the police commissioner that the continued existence of speakeasies would mean a new commissioner. Such an attitude would be contrary to political traditions and it would probably be necessary to establish the sincerity of the executives by rather drastic and perhaps somewhat sensational means. If a few officials were publicly humiliated by removal for derelictions openly announced and condemned, few of their successors would be guilty of a similar neglect of duty. The inevitable result would be that the executives would require efficiency and honesty from those under them equal to that exacted from them. Concretely, a police commissioner or similar executive would call in those immediately under him and say, "I want you to stop liquor violations and I'll support you. But if my plain-clothes men find a speakeasy or a still in your precinct you will have to have some convincing excuse. If the violation continues no excuse goes but you do." The executive would have to prove his sincerity and determination, but with executive pressure manifested violations would practically cease.

Enforcement officers and policemen are extraordinarily resourceful when it becomes desirable or profitable, and that desirability is generally determined by the attitude of their superiors. Their resourcefulness is such that they solve many problems without making any arrests and without violence. (Disavowal is made of any advocacy of illegal, extralegal, or oppressive methods.) A small city official recently boasted that a gypsy caravan had not stayed an hour in his city. The gypsies had committed no crime; the officer took pride in the fact that he did not let them stay long enough for that. Yet the same man, in the same conversation, petulantly plead that he could do nothing to rid the community of the four speakeasies that had been operating there for three years. The absurdity of it! No officer is in a quandary to know what to do if a hold-up man idles on the street corner about the time a pay roll is due. No officer is perplexed to know what to do about a speakeasy or bootlegger on his beat when he knows his superiors will uphold him. And every officer knows of the existence of every situs of law violation in his immediate jurisdiction. It is idle to argue that minor officers protect law violators for graft. No major or general protection is possible without the collusive acquiescence of superior officers.

Where there is the official will the way treads on its heels. A few years ago the police were protecting 14 houses of ill-fame on one street in a large city. The captain, the sergeant, the officer, each got a share of the graft. There came a disagreement and the order was issued to close the houses. The officer began faithfully to patrol that part of his beat. Intoxicated persons were taken to the station house, vagrants were admonished, loiterers were told to move on. Not a raid nor arrest was made in any of the houses but within 30 days every one was closed. There were no patrons.

But, someone says, this talk about the will to enforce is just an ethereal abstraction. The prohibition law is flagrantly violated. We have the officials, but how can the essential but elusive actuating impulse be attained? There should be some plan to enforce the law. Precisely. A plan that has to do chiefly with matters immaterial and psychological can hardly be submitted with blue prints and working specifications, but it can have some very definite working details.

In the first place, the plan relates to enforcement, not to defeasance. We are not concerned, in this connection, with whether the law is popular or just. We have before us an actual condition which does not here admit of theorizing on substantive matters of law. Ours is the adjective problem of attaining the principle end of the eighteenth amendment.

If this adjective problem may be largely solved by the will to enforce, how, then, is that will to be obtained? Must it be evolved from within or may it be the result of objective stimuli? That the latter is true may be answered with a decided affirmative. Official inanition, laziness, complacence, or even corruption can never long withstand the continued focus of informed public attention. No outlaw business can stand the light. Bootlegging is an outlaw business, and it is an established fact of mass psychology that the great inarticulate majority of any community becomes vocal whenever informed public opinion is directed toward such an object. It is also a fact that those on the fence take a position with the majority and some even climb over from the other side. Call it a phenomenon of the mob mind or ascribe it to the innate righteous feelings of the American citizenry, but the fact remains that this irresistible force operates upon officials to produce the will to enforce.

Whenever an exposé of bootlegging, or gambling, or prostitution is made, the lid goes on and stays on just so long as the agitation keeps up. There is thus raised the question of how to secure a sustained exercise of the will to enforce. This can be secured by an exemplification of the fact that the focus of public attention is not discontinuous and disjunctive but continuous and unbroken. Complacent officials consider reform movements as—like angel visits—"few and far between." They must be made to cry with Macbeth: "What! will the line stretch out to the crack of doom?"

This demands a commission of experts to gather information and make it available to the public. Such a commission could never represent the political minority because partisan considerations must always be excluded. It would have to have a personnel removed from the possibility of any just or fair adverse criticism. These experts might be named, for example, by the American Political Science Association and financed either by subscription or as some of the great foundations. The commission principle is flexible enough to be adaptable to the needs of any political unit as the occasion may arise. This commission must never be maneuvered into a position of assuming the rôle of prosecutor. To take this position is to accept failure in advance and to foredoom the project to the scorn of corrupt or unwilling officials and the ultimate disapproval of the general citizenry. Such an agency ought never to be unfriendly to honest and willing officials. While to the unworthy official the focus of public attention might seem a searchlight upon his embarrassment and the findings a philippic, to the willing and conscientious official they would be a beacon light and an encomium.

How would such an agency operate?

It would obtain exact information about law violations, including names, dates, and places. It would be informed on all matters in which the public has a legitimate interest. That means everything which may serve as an index to the degree of law enforcement obtaining at a given place and time. The essence of this information should be sympathetically presented to the officials. If they are in earnest they will remedy the situation in so far as it needs remedy. If the officials fail to take cognizance of lawless conditions, the information should be given to the public in the same open way, although perhaps more dispassionately than the findings of a Senate investigating committee.

The commission collecting this material need be no obnoxious interloper. It need be offensive only to unworthy and dishonest officials. Its interest in the honest administration of the law should be as unimpeachable as that of an antituberculosis association.

This method of securing enforcement by giving the Executive will to enforce has never failed when it has been consistently applied. No recalcitrant official can withstand it. Thus there may be obtained that essential spirit which is manifest in the will to enforce.

Joint Action by Government and People

By Ernest H. Cherrington, general secretary World League Against Alcohol, Westerville, Ohio

THE FOUNDATIONS OF THE PLAN

Recognizing conditions: The purpose of the eighteenth amendment is directly to prohibit the traffic in, and indirectly to prohibit the use of, beverage alcohol. This plan proposed for making that amendment effective involves recognizing that constitutions do not enforce themselves; that laws live by action of officials; and that public opinion is the dynamic force back of government.

Facing the facts: This plan requires facing the fact that while American public sentiment has been shown to be emphatically favorable to the eighteenth amendment as a standard of conduct, nevertheless there is as yet no such degree of sanction for enforcement and observance; and that there is widespread and flagrant disregard of that amendment and the laws pursuant thereto.

Fundamentals: This plan, moreover, is constituted upon the assumption that free government can effectuate itself; that the perpetuation of democratic institutions requires observance of laws by the classes as well as by the masses; that the rights of the people of the Nation as a whole are paramount to those of a single individual, community, or State; that time is an essential factor in making effective prohibitions against great social evils, as evidenced by such cases as those of piracy, the slave trade, dueling, the public lottery, and narcotic drugs; that any effective plan must evolve from experience, and that its final test must be, not whether it is expedient but whether it is right.

This plan, therefore, naturally divides itself into two general subdivisions, namely: (1) The functioning of the Government, and (2) the functioning of the people.

I. THE FUNCTIONING OF THE GOVERNMENT

Concurrent and coordinate action: The Government's part of the plan for making the prohibition amendment effective requires not only concurrent action of the States and Congress under the specific concurrent provision of the amendment but also coordinate action of the judicial, legislative, and executive departments of Government and subdepartments thereof.

While there is no limitation on the Federal Government to deal with all classes of violations, nevertheless experience and practical considerations indicate the wisdom of coordinate action whereby the local and State governments will deal with local violations, thus leaving the Federal Government to deal with sources of supply, interstate traffic, diversion, large sales operations, smuggling, and conspiracy cases.

The judiciary

One of the most vital essentials for the success of this plan is that all courts, through which enforcement registers, shall be kept independent and free of undue influence; shall assess penalties commensurate with the crime, within the limitations of the law; shall insure speedy

and sure punishment for violations; and shall see that juries are chosen by such methods as will assist justice.

Nevertheless, the courts should be held strictly to account. There is no department of government where malfeasance or nonfeasance should be dealt with more promptly and definitely, for what happens in the courts will not only affect the eighteenth amendment but will go far toward demonstrating the degree of efficacy and integrity of the American court system.

The executive

Local, State, and Federal action: Under the plan proposed, adequate enforcement of the law involves coordinate action upon the part of Federal, State, and local executive officials, who stand immediately behind the courts.

There is divided responsibility in the States, where the maximum of police power is held. Not only the governor but the attorney general, the sheriffs, the mayors, and the prosecutors, are elected by the people. The only Federal enforcement official elected by the people is the President, who alone is specifically charged under the Constitution with the faithful execution of the laws, together with the preservation, protection, and defense of the Constitution.

Power of the President: By virtue of his appointive power, his relation to the judicial and executive departments of the Government, his influence with Congress, and his connection with foreign treaty making, the Chief Executive of the Nation becomes the most important single factor in the machinery of government for making the eighteenth amendment effective.

Presidential responsibility: The fact that the eighteenth amendment is more seriously challenged than other parts of the Constitution lays upon the President a greater responsibility with regard to it. The success of this plan, therefore, depends very largely upon him. Just as local, community, and State executive officials must be held responsible for local and State enforcement, so the President must be held peculiarly responsible for Federal enforcement.

The legislative department

Character of legislation: Under this plan the legislative requirements are not for a new system of enforcement but rather for ample appropriations, necessary adjustments, and clarifying and remedial provisions to carry out the intent of the present laws.

Specific changes necessary: Experience has demonstrated the need for the following legislative action:

Increase of the annual appropriation for the Federal Prohibition Unit to not less than $25,000,000.

The transfer of the Prohibition Unit to the Department of Justice.

A liaison officer to coordinate the subdepartments of all the general departments of the Government in such a way as the Coast Guard and customs have been correlated with the Prohibition Unit under the Assistant Secretary of the Treasury.

Concentration of all existing warehouse liquor stocks and making the manufacture of all intoxicating liquors for legitimate use a definite and direct responsibility of the Government.

Increasing penalties for the violation of the prohibition laws to equal the penalties provided for similar classes of offenses under the postal laws and codes governing other offenses of the same degree.

Making the purchaser of intoxicating beverages liable under specific penalties as particeps criminis.

Providing for deportation of aliens who persistently violate the prohibition laws.

Providing a sufficient number of judges and ample Federal court machinery to insure prompt care of all cases.

Providing that the Government shall gather data and publish official statements on the various vital phases of beverage alcohol use, law violations, accidents, poison liquors, and various other related social and economic data such as are now collated and published on other important subjects.

Enlarging, extending, bringing down to date, and making imperative the observance of State laws providing for instruction on the alcohol question in the public schools.

II. THE FUNCTIONING OF THE PEOPLE

Where final authority rests: Under our form of government there is a power above the three departments outlined in the Constitution. That power is public opinion.

Public opinion is the final authority whose will legislatures translate into statutes, whose mandates public officials execute, whose judgment courts interpret and decree. Therefore this plan places the greatest emphasis on the obligation of the people.

Organized effort: Public opinion under this plan must function through such organized forces as the churches, social betterment agencies, welfare associations, temperance and reform societies, civic leagues, and citizenship organizations. Such organized forces, representing the people, must constantly make their impact upon educational, industrial, commercial, social, and political groups. The results of their efforts must be shown in the work of the public schools, the Sunday schools, labor organizations, business enterprises, social clubs, and other agencies. They must make their appeal to, and make proper use of the press, the pulpit, the public platform, the movie, and the radio.

Impacts upon government: Such forces may thus exercise a most wholesome and proper influence in the community, the State, and the Nation not only in the election of public officials but in securing proper remedial legislation and assisting law enforcement by the influence thus indirectly brought to bear upon legislative bodies; upon local, State, and Federal enforcement officials; upon State and Federal judiciary departments; and, what is more important than all else, upon the people themselves, as to their vital part in the operation of all the departments of government and by their own obedience to the laws which they have made. Thus only can morale be created.

Limitations and obligations: Organized forces representing the public in educational and promotion work in the interest of the eighteenth amendment must not assume functions which belong to the Government, must not attempt to dictate, but must constantly seek to present "the truth, the whole truth, and nothing but the truth" as it relates to the principle involved in the eighteenth amendment and to its enforcement and observance.

New type of education: Even more vitally important, however, is the obligation upon such forces to inaugurate a new type of educative effort, with new data in harmony with the new age, new methods, and a new appeal, that will meet the most critical intellectual and ethical tests of this new day. That means such a campaign of education as has never before been approached in social reform. It means an effort to persuade the public to consider in this connection the new facts and implications of the rapidly increasing mechanization of industry, where the electric dynamo has substituted for human muscle and has thus transformed the human factor in industry into one, the requirements of which are keen eyes, quick wits, steady nerves, and clear brains.

It means emphasizing the steadily diminishing safety margin in modern transportation, where the fast express, the automobile, and the commercial airship are rapidly making intolerable the contact of beverage alcohol with the nerve centers of the individual, with all the far-reaching social and ethical implications involved therein.

It means placing major emphasis upon the obligation of leaders in industrial, commercial, social, and political realms who, by reason of their example, influence, and leadership, must of necessity carry the largest degree of responsibility.

It means primarily investigation, research, publicity, and other special educative processes with the resultant dissemination of the truth, not simply among adult groups but particularly and more imperatively among those in the public schools, the colleges, and the universities who as citizens and officials of to-morrow will determine the destiny of beverage alcohol and the principle of prohibition.

Such an educational program—with such methods, such limitations, such obligation, and such a purpose—is absolutely essential to an adequate realization of that condition which the eighteenth amendment was intended to promote.

III. THE OPERATION OF THE PLAN

This plan, therefore, will operate, first, in the dissemination of the truth in a tremendous nation-wide educational campaign emphasizing total abstinence for the individual and the elimination of beverage alcohol from social life.

Gradually, by that process and by the action of government which will help to promote that process, there will be created a body of sentiment in villages, counties, cities, and States which will be committed against beverage alcohol and to the vital principal of national prohibition. Slowly but surely that sentiment will be crystallized into public opinion, which in turn will be translated into definite action. That public opinion, guided by the organized forces of the churches, social-welfare agencies, civic organizations, and citizenship groups, will increasingly express itself through intelligent discrimination at the polls, in the election of public officials, and on the sidelines in government, encouraging and upholding the hands of public officials who perform their duty and condemning the action of those who violate their trust.

Finally public officials, certain of that sentiment, eagerly will act and aggressively will press for the realization of the people's will to the end that the laws of Congress and the States may be supplemented as need may require; that the courts may function in the matter of prohibition laws as they do in connection with other laws; that local, State, and Federal officials in the executive departments of the Government may set up a new standard of public conduct in the enforcement of the law; and that the people generally may become committed to total abstinence and prohibition.

Thus only can the eighteenth amendment to the Federal Constitution be made permanently effective.

BUILD UPON SCIENTIFIC FACT

By Dean Alan C. Lennon and faculty, College of Puget Sound, Tacoma, Wash.

The effectiveness of the eighteenth amendment will depend first upon favorable public opinion. This must be founded on scientific fact rather

than propaganda. To this end a Federal commission composed of expert economists and sociologists should be appointed by the President of the United States or the Department of Justice. This commission would proceed in a scientific manner to discover, analyze, and present facts concerning the effects in personal and social life of alcohol and of its prohibition, from such sources as life insurance records, biological investigations already undertaken and not yet completed, and other types of research into the results of intoxication and use of alcohol in general. Such a commission could have public confidence and through dissemination of the actual facts concerning the effect of alcohol on the health, economic success, social welfare, and efficiency of the individual, would be an important factor in forming public opinion.

A national organization of business and professional men and women, with units in all parts of the country, would be established for giving adequate publicity to the findings of the Federal commission. The members would be chosen for their outstanding ability and influence, and would be called upon through lectures and conferences, to appeal to the sentiments, ideals, and patriotism of the citizens. They would use their personal influence to bring social pressure to bear upon the indifferent, and to curb the propaganda of special interests, especially in the press.

Since the ultimate success of legislation and enforcement must come from an enlightened public conscience, a systematic plan of character education should be carried on through the schools and through other cooperative agencies, such as the Boy Scouts, Knighthood of Youth, and Girl Reserves. This would include as a part of the course of study, loyalty to the Constitution as a trait action, correlative with honesty, courage, industry, and other trait actions that make for the good citizen. Loyalty to the Constitution as a subject in the character education curriculum, would be taught by the direct method, just as arithmetic is now taught in the academic curriculum. Information would be given concerning the Constitution and the sanctity of law. In addition, specific situations calling for the development of trait actions in the individual child, involving loyalty to the State and the Constitution, would be presented.

The following situations are offered as examples:

(1) You hear someone make scoffing and derogatory remarks against the Constitution. What would you do?

(2) You hear jokes about the law and the officers of the law. How would you respond?

(3) You are working in a store after school hours. You discover that your employer is selling intoxicants. What would you do?

Many specific situations in addition could be presented, based upon the scientific information given out by the Federal commission of scientists.

The active sympathy and cooperation of leaders in the commercial, industrial, and professional life of our communities must be secured as a major condition of effective operation of the prohibition plan. These leaders have been in the main indifferent, where not actually hostile to the enforcement of the prohibition laws and their lack of cooperation has been in a large measure responsible for the ineffectiveness of enforcement. Business is the dominating force in the social life of the United States, and the thinking of its business and professional leaders is the determining factor in public opinion.

In order to interest the business group in the enforcement of prohibition, since they think in terms of profit or loss, it must be demonstrated that such a course is to their own financial advantage. This can be done through showing that enforcement will bring about increased efficiency and production. Many employers have already been convinced by studies in specific lines of industry that the enforcement of prohibition results in increased efficiency and production among their employees and subordinates. These and similar studies should be given wider publicity, and further research should be undertaken. Exact measure should be made of the relation between the use of intoxicants and fatigue, spoiling of materials, damage to equipment, rate of production by employees, and frequency of accidents; curves should be plotted, charts prepared, and this material made available to all employers.

Although many employers have realized the undesirability of the use of liquor among their employees, they have made no check on the effect of the use of intoxicants on their own efficiency. A system of standards, records, and reports for checking their own efficiency, similar to those used in measuring the efficiency of employees, should be devised.

A general increase in the consumption of goods would be to the advantage of all producers. A study should be undertaken to show how this would result from effective enforcement through increased savings and prosperity of the people.

On the basis of the scientific facts regarding enforcement given to these leaders, they should be definitely committed to a program of constructive cooperation. Through the initiative of the Federal commission and of the national association of business and professional men and women mentioned above, they should be pledged to support prohibition in their personal relations, as exemplified by President-elect Hoover, who, during his visit in Nicaragua, used water in drinking a public toast. Coordinated effort and social cooperation should be initiated by leaders in different lines of business.

Reorganization of political and legal machinery for the enforcement of prohibition must be carried out in order to secure effective operation. Through a survey of enforcement methods in social groups where law is most effectively maintained, a better legal procedure for dealing with violations of prohibition laws should be developed. Since, as noted by the American Bar Association at its annual meeting in San Francisco in 1922, Canadians, as well as other aliens, are more law-abiding in their own country than in the United States, it is particularly suggested that a study be made of court and police practice in such countries as Canada and England, leading to adoption of their desirable features.

There should be immediate use, without waiting for the completion of the above survey, of recommendations for better law enforcement made by the American Bar Association. These include suggestions that parole and probation be permitted for first offenders only, that dockets should be kept clear, and that bail should be carefully supervised.

Efficiency in the enforcement machinery will depend upon proper differentiation of function within the organization. Since the Department of Justice specializes in matters dealing with law enforcement the enforcement of the eighteenth amendment should be placed under its jurisdiction rather than that of the Department of the Treasury. In each judicial area a model police force and a model court, based on the findings of the survey suggested above, should be set up as a special agency for the enforcement of such laws as the eighteenth amendment and the Harrison Narcotic Act. Such a court would have a double advantage, in that it would enforce a difficult law, and, as its efficiency was demonstrated, would serve as a model for other courts.

More exact delimitation of the jurisdiction of Federal, State, and local enforcement officers, eliminating friction and opposition between them, must be worked out. It is suggested that Federal officers concentrate their efforts upon wholesale distributors, and that State and city officials hunt out local and retail dealers. Under such an arrangement the Federal officers would shut off the supply of beverages of high alcoholic content at its source. The principle of elimination at source should be further carried out by arranging treaties with foreign powers whereby these powers would agree to deny clearance papers to such cargoes of alcoholic beverages as may be strongly presumed to be destined for United States ports.

All appointive officers from the Attorney General to the 91 United States marshals should be persons who are friendly to the eighteenth amendment, and who believe that it can be enforced. A program of factual education will guarantee ultimately elective officers who are likewise friendly to the amendment, and who likewise believe in the possibility of its enforcement.

PLAN OF CLARENCE TRUE WILSON, GENERAL SECRETARY BOARD OF TEMPERANCE, PROHIBITION, AND PUBLIC MORALS, WASHINGTON, D. C.

1. If I were President: I would see that the Constitution of the United States did not become a joke during my administration. The White House would not serve intoxicating liquors or patronize bootleggers or set an example of drinking in homes while the Government was committed to the opposite policy. My Cabinet would not contain men who openly flouted the Federal constitutional provisions of the Federal Government. Judges of my appointment would not brazenly, from the bench, denounce the laws of the land which they had taken an oath to enforce without accounting to me and to the Government in the impeachment proceedings provided for by law or through a peremptory demand for their resignation. I would appoint as the chief enforcement officers men of executive ability, standing for character and achievement, and who, in addition, believed in this law that they were expected to spend a lifetime in enforcing, so that in all their work they would be able to work with their conscience and not be asked to work against their own conscience. Other things being equal, men will do better by the task in which they believe; therefore no wets need apply. My message to Congress would hold up the high ideals of citizenship and loyalty and not let down to popular lawlessness in an experimental stage of our "greatest moral experiment" through "that salutary law." As the leader of my party as well as the Executive of my Government my influence would be made to tell for our form of government by showing that when 46 out of 48 States ratify a constitutional amendment, decent and law-abiding citizens would be expected to observe it and the criminally disposed would find it enforced upon them by the strong arm of the Government.

2. If I were Senator or State Representative in Congress and took an oath to enforce, protect, and defend the Federal Constitution and the acts of Congress, I would vote for an adequate appropriation for the enforcement of the law that is most under fire, and until it was changed I would see that it was respected at any possible cost. The budget for prohibition enforcement would, therefore, have my attention and all needed acts of supplementary legislation to adapt the Volstead Act to the growing exigencies of experience. A law should fit the growing sentiment of the people as the bark on the tree grows with and expands with the swelling trunk. I should, therefore, make no apologies for

supplementing a law of Congress, but make a felony of the five outstanding offenses against the eighteenth amendment which are named in the amendment itself—the manufacture, sale, importation, exportation, or transportation of intoxicating liquors. To do any of these five things is not only to violate the Volstead Act of Congress but to trample on the Constitution itself, and Congress should enact laws and compel the honoring and the general observance of our constitutional amendments.

3. If I were an officer of the Federal Government in executive position or in a judicial relation I would feel that an attack on the Volstead Act was an attack on me as an officer of the Government and interpret the flaunting of lawlessness as rebellion against our form of government, and I should not do what Roosevelt called "hitting soft," but would show the lawless element what getting the strenuous life pledged to law-abiding citizens meant.

4. If I were an officer of the United States Army or Navy, wearing the uniform of our Government, I should remember what Abraham Lincoln said during the Civil War when he saw a soldier wearing his blue uniform into one of the notorious saloons of Washington. The great President walked forward, put his hand on the shoulder of the young man, and said, "My boy, I hate to see you carrying that uniform into places like that." And as an officer of our Army or Navy I would hate to see our men wear the uniform of the United States, paid for by the Government and loaned to them for personal use while they represent it, carried so that they openly proclaim that while wearing their uniform they were trampling on the principles of free government and obliterating the influence of the laws which the oath of every soldier and sailor requires him to uphold and protect.

5. If I were governor: I should hold my State to be foremost in the cooperation which it gave to the National Government in its great moral experiment of showing the nations that you can run a government like ours without tainted money, and conduct a civilization without turning boys into drunkards and girls into drunkards' wives. I would make a conscience of appointing the best equipped men to enforce a law of my State and see to it that they cooperated with Federal officers in a joint effort to make the efforts of the United States in suppressing an iniquity like the liquor traffic a success.

6. If I were chief of police: I would remember what the old saloon days meant, when every corner was an organized temptation for youth and a sluiceway for drunkenness, when the red-light district and the gambling hells held high carnival and the saloon gang ran the politics of the city, removed decent judges from their places for fining gamblers or suppressing dens of vice, and when decency could hardly get a breathing spell in any one of our big American cities, where the notorious bad government smelled from ocean to ocean and it was commonly said 15 years ago that our civilization was breaking down through the graft of our city life. And now, as the chief of police of my town, I have the responsibility of making a success of prohibition, which simply means the final evolution of a hundred years of education as to the evils of intemperance and the final culmination in a supreme effort to suppress rum selling, liquor manufacturing, and organizing political corruption by the brewers' association and the German-America alliance. Whatever others may do, my citizens shall go straight.

7. If I were sheriff: The people of my county have chosen me from all their citizens to take responsibility for managing their finances, preserving order, enforcing law, and maintaining the standards of good citizenship in rural as well as city life. I can let down and the whole moral tone will lower, or I can hold high standards to law-abiding citizens and we shall have a decent county to live in and raise our children in. I have a close touch with the city government on the one hand and the Federal Government on the other and with the jails, police courts, circuit courts, and the Federal officers as well. They have a right to expect certain things of me, and while I am sheriff they shall not be disappointed. Prohibition has not had easy sledding with politicians, but it is no longer a question as to whether I believe in it as a policy, the law-making power has settled that, and constitutional government goes up or down in this county with the success or failure of law observance and enforcement. I, therefore, shall without asking questions as to who enacted it and why, personally do my duty in the enforcement of a law as it stands. If it is properly enforced we will know whether it ought to stand or not; if it is not enforced no honest man in America can say it has been given a fair trial yet; and, of course, it must not be changed until it has had a fair trial.

8. If I were constable of my county, or policeman of my city, I should expect people to remove me unless I respected the law of the land which I have taken an oath and am taking a salary to defend, protect, and enforce. When I walk my beat I want it distinctly understood that I am there as the embodiment of the principles of law enforcement, for the benefit of all the people who support me, and that I am not in partnership with the bootleggers and none of their blood money has ever clung to my hand or found its way into my pocket.

9. If I were a captain of industry, I would feel that present day industrial leadership of both capital and labor holds the most potential force for effective realization of prohibition efficiency. See how comparatively few have been the strikes since the decade of prohibition, and what an orderly, law-abiding, and sober affair the strikes have been. In the old days they filled up with booze in the wide open saloon, plotted mischief with intoxicated men and went out to make nights hideous with drunken crimes. Then how well I remember when we were thought to have no labor troubles, how thin the ranks were Monday morning, Tuesday, work still crippled as workmen struggled back late in the week from sleeping off their week-end debauch. Our profits have increased as our workmen have grown sober.

10. If I were an influential leader in modern education, the social heredity our generations pass on to the next by what we call education has seriously fallen down in the advocacy of respect for the ideals, law, and institutions of society. Most of our educational standards are lowered to suit a jazz age of lawless music, loose thinking, bravado acting, and unconcerned relationship to the State. The function of education should be to make students good citizens, who observe the law and help to improve society.

11. If I were the editor or manager of a great newspaper, I would give the news, I would picture the situation. But I would hold myself responsible for making my paper a leader to better things. Nation publicity movements are quite as responsible for the popular attitude of citizens as any political organization; "As a man thinketh so is he," and he thinks what he reads.

12. If I were a leader in the religious world, I should want our highest morality to register for human betterment. A religion that does not make men better is not good for men. Religion and morality are one. Religion is morality toward God. Morality is religion toward men. To imagine that religion has nothing to do with political questions is to restrict it from operating in its own field and make it an impractical idealism with no earthly mission. A religious organization with no rebuke or remedy for such a crushing evil as the liquor traffic or now the lawless bootleg trade, would have no place in a world like this.

13. If I were a law-abiding American citizen, enjoying the protection of the Army and Navy that keep foreign enemies from molesting us, of the police force that keeps the evilly disposed from trespassing, of good enactments which protect my life and property and reputation from the burglar, midnight assassin, the villainous libeler and even the speed fiend, I would consider myself an ingrate to enjoy all these immunities from danger at the hands of a republic as I trampled under my feet the rights of that republic in enforcing its own best laws and in the upward-trend of civilization by which evil has gone down and righteousness has gone up. There has been no enactment in the 1900 years of Christian civilization that has meant more for the protection of women, the safety of children, the building of homes, the establishment of character, the prevailment of sobriety than the best law of them all—the prohibition of the liquor traffic.

PRESIDENTIAL LEADERSHIP FOR ENFORCEMENT AND EDUCATION

By William M. Bennett, former State senator, New York

THE EIGHTEENTH AMENDMENT

1. The manufacture, sale or transportation of intoxicating liquors within, the importation thereof, into, or the exportation thereof from the United States and all the territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

THE PROBLEM

The best and most practicable plan to make the eighteenth amendment effective.

PROPOSED PLAN

This plan consists of two parts:

1. Legislation, enforcement, changes in administration.
2. Educational program to put public opinion back of the amendment.

A constitution is not self-enforcing. It contains no penalties for its violation. It must therefore be followed by legislation to become effective.

PART I.—LEGISLATION, ENFORCEMENT, CHANGES IN ADMINISTRATION

A. LEGISLATION

1. Federal: Federal legislation (a) defines "intoxicating"; (b) declares the crime for violation of the amendment; (c) creates officers to administer the law. Under it there is now partial enforcement, but the amendment is not completely effective.

2. State legislation: The amendment contemplates aid by the States by making jurisdiction of the Congress and the States "concurrent."

The 35 States which were dry before this amendment should not repeal their then existing prohibition laws nor relax their efforts to enforce them. If not already done, the laws in these States should be enlarged so as to include the enforcement also of this eighteenth amendment.

Other States should pass enforcement legislation to make the eighteenth amendment effective within their borders. These laws should be uniform.

B. ENFORCEMENT OF THE LEGISLATION

1. Federal enforcement: There are about 2,000 Federal enforcement officers trying to cover 3,000,000 square miles of territory, about 27,000 miles of coast line, and 4,000 miles of land boundary.

Their number should be increased, their pay increased. They should be men of established character, who believe in the amendment and who personally observe the law.

2. State enforcement: In the States dry prior to 1920, public opinion and State tradition would require that they keep up their police forces to enforce both their own prohibition laws and make the eighteenth amendment effective.

In other States and cities, as for example, New York, with its 12,000,000 and New York City with its 6,000,000 inhabitants, State legislation should place upon the local police forces the enforcement of such laws.

In New York there are 300 Federal prohibition agents. New York City has 17,000 policemen. Such a force can make the eighteenth amendment effective in New York City. Other cities can do the same.

Every policeman knows what is going on in every building on his beat, whether it houses a still, a bootlegger, or a speak-easy.

Every police department should have some official, a deputy commissioner, charged with the duty of keeping a real-estate map showing the location of every such place, a file showing the record of such places and history of the persons running them. Each patrolman should be required to submit to such official a periodical report as to the condition of his beat. Such deputy police commissioner should have the power to examine patrolmen as to the condition of their beats, and also to investigate the complaints of private citizens, the power to subpœna witnesses in connection with such investigations, and jurisdiction to try patrolmen for neglect of duty.

C. CONVICTIONS

Crime must be punished, else the law is not salutary. Local police officers can arrest for violations of the Volstead Act, but State courts can not try the offender for violation of Federal statutes. Hence the crowded condition of our Federal courts.

State legislation will open State and local courts to try offenders against prohibition. Thus speedier trials will result.

D. JUDICIARY

Courts should uphold the enforcement officers. Judges should not be too technical about the evidence. They should impose severer sentences. Failure to do so discourages the officers and prohibition agents.

E. WHAT HAS BEEN ACCOMPLISHED AND WHAT IS STILL TO BE DONE

1. The saloon: The eighteenth amendment has abolished the open saloon. To that very desirable extent the amendment is effective.

2. Moonshiners, rumrunners, bootleggers, speak-easies: The Federal Government is dealing with all of these fairly effectively.

State legislation and local enforcement should aid.

The patrolman knows every building. Vast majority of houses require no watching. The comparatively few that require watching can easily be covered once State and local aid is obtained.

F. VIOLATION OF THE EIGHTEENTH AMENDMENT IS A BUSINESS

No one will manufacture, sell, or transport liquors unless it is profitable. It is a business with tremendous investment.

Make the business unprofitable and those engaged in it will quit.

Dry up the sources: Seek out and destroy the stills. Concentrate on seizures and destruction of cargoes, whether carried on the sea in ships, on land by auto, or on sidewalk by hand.

Destruction of stills, prevention of delivery, and stopping the trade of the speak-easy is simple when the hundred thousands already existing State and local peace officers cooperate.

Landlords know their tenants. Make them get rid of any criminal tenants.

Conviction for crime helps, but make business unprofitable and it will cease.

It takes two people to make a bootlegger—the seller and the buyer. Education to total abstinence will make the business unprofitable by decreasing the number of customers. The former educational program in schools, schoolbooks, churches, Sunday schools, lecture halls, and homes should not be dropped for a mere law-observance plan.

SOME CHANGES IN THE FEDERAL ADMINISTRATIVE SCHEME

1. Administration of this law should be made a separate department of the Government directly responsible to the President: Making the amendment effective is so important that it was made one of the main issues in the recent presidential campaign. Economic saving effected by prohibition runs into several billions of dollars. It is a nation-wide problem. President-elect Hoover has pledged himself to special effort to enforce it.

The administration of this law should be placed in a separate department of government, namely, a commission of outstanding men appointed directly by the President.

Thus the subject will be dignified, have its proper importance, and outstanding men of ability will consider it an honor to be appointed one of the commissioners. We have ample warrant for this in the Interstate Commerce Commission and in the Federal Trade Commission.

To this commission should be transferred from the Treasury Department—

(a) All executitve and administrative functions.

(b) Supervision and conduct of the educational program hereinafter outlined.

2. Department of Justice: Enforcement of the penal provisions of this law should be placed under the Department of Justice, thereby coordinating the work, fixing the responsibility more directly, securing a higher type of personnel and a better morale.

PART II.—EDUCATIONAL PROGRAM TO PUT PUBLIC OPINION BACK OF AMENDMENT

A large percentage of the people oppose this amendment. Public sentiment must be put behind it. This can be done by education. Wet organizations under high-sounding names are active with propaganda. Drys must be equally so. A mere "law observance" program will not suffice.

There must be continuous—

A. EDUCATION

1. As to effects of intoxicating liquors: The temperance organizations should renew and redouble their activities in teaching the effect of alcohol in impairing mental and industrial efficiency, causing crime, misery, poverty, industrial accidents, and economic and spiritual loss. Total abstinence is spreading in England and Scotland. It should be emphasized and encouraged here in every possible manner.

2. As to respect for all laws: There is wholesale violation, not only of prohibition, but of all laws. Employers' Association of Chicago reported that there are 168 "rackets" or organized criminal attacks on business in that city, levying tribute of $100,000,000 a year.

Respect for law and a civic conscience must be restored.

3. To bring about the enactment of State legislation putting the State and local peace officers, courts, and prosecuting officers back of the eighteenth amendment: States must help. State, city, and local courts, magistrates, prosecuting and peace officers must back the amendment. Civic organizations should be formed to bring about speedy enactment of such legislation in every State where it is not now on the statute books.

B. THE PRESIDENT SHOULD BE THE LEADER IN THIS EDUCATIONAL MOVEMENT

Mr. Hoover, at Elizabethton, Tenn., October 7, 1928, said:

"The purpose of the eighteenth amendment is to protect the American home. * * * I wish it to succeed."

All the people must be taught to believe this. The amendment will then become effective.

Most of the protection of the American home is secured from State legislation and local ordinances, enforced by State and local courts and peace officers.

This was true of prohibition before the amendment was adopted. The people must cooperate to make this amendment effective. Public sentiment must be put behind it. The President can do this more effectively than anyone else.

1. A message to the people from Mr. Hoover: Along the lines of education of the people and revivifying the public conscience, it would be very effective, and entirely fitting if President-elect Hoover should start the revival of the educational program by giving a message to the American people setting forth:

(a) The reasons for the adoption of the amendment.

(b) Telling them that their cooperation by personal observance of the law and cooperation in an educational program is necessary to make the amendment effective.

(c) Announcing that he intends to call a national conference on the subject.

2. A national conference should be called by Mr. Hoover: There should be formed in this country a national association to promote total abstinence and make the eighteenth amendment effective.

Mr. Hoover after his inauguration might well follow up the message to the people by calling a conference at Washington of governors, mayors, chiefs of police, judges, prosecuting officials, and a carefully selected list of heads of transportation lines, large industries, life-insurance companies, editors, publicists, and other representative citizens of all professions and walks of life from all sections of the country to consider:

(a) The problems of enforcement.

(b) The successes of enforcement.

(c) The failures of enforcement.

(d) The remedies.

The list of names of those invited and their positions in life should be given out to the press. This would be a coming together of the government, and business, and the citizens. Its proceedings would attract great attention and would be spread broadcast by the press and radio, by the church, schools, and colleges, and would give a new and nation-wide interest in the eighteenth amendment.

The conference would result in valuable information and concrete suggestions.

Out of it should come the formation of a permanent nation-wide organization, nonpartisan, nonsectarian, which any man, woman, or child could join, like the Red Cross, having local chapters, local drives, educational propaganda, tag days, and other activities tending to help the parents teach the children and the children to lead the parents and stir up State, city, and community interest in total abstinence and the support of the amendment.

C. ELECTIONS

1. National: The recent election demonstrated that the amendment is here to stay. We have a President pledged to make the amendment effective, who says "I wish it to succeed."

The Congress is of the same mind.

2. State and local elections: State aid is necessary in enforcement.

If a candidate enters the primary of either party or is nominated for governor, mayor, or other office who is a wet, effective action should be taken to nominate an opposing candidate of equal capacity who is avowedly and actually in favor of making the eighteenth amendment effective.

This is part of the "educational" program.

CONCLUSION

Whoever made this world has infinite patience. Toward prohibition He has given us a starting point in the eighteenth amendment. It can not be made effective in a day. But with State legislation and State and local enforcement added to Federal legislation and enforcement, and a public conscience and respect for law and total abstinence restored by ceaseless education, the amendment can be made effective.

Most important and absolutely essential is education, education, education, and a new national association to spread the economic and spiritual benefits of total abstinence and to bring about a restored public conscience and a restored respect for law both by citizens and by the officials elected by them and the election of officials who will respect the law.

SELL ENFORCEMENT

By William Feather and Edwin L. McFalls, 812 Huron Road, Cleveland, Ohio

The following program for making effective the eighteenth amendment to the Constitution of the United States assumes that the amendment and the Volstead Act are fundamentally sound—legally, sociologically, economically—and that they represent the conclusive will of the American people and will not be altered in any basic way.

It contends, on the other hand, that the effect of this legislation has been destructive rather than constructive, negative instead of positive, and that the methods of enforcement, running exactly counter to American tradition, are psychologically wrong and tend to promote civil war rather than national progress.

This plan suggests a method, modern but not magic, which will eventually enlist the support of the people who are now indifferent or antagonistic and make enforcement easier, less costly, and more pacific. Evidence will be supplied that the plan is practicable, and that its adoption would immediately reduce present costs of attempted enforcement by the police and courts.

Phychologists state that the human mind is incapable of receiving a negative stimulus as readily, or reacting to it as quickly or instinctively, as it does to a positive stimulus or command. This characteristic of human nature is noted daily in common matters.

Direct a person to do something, with the proper show of authority, and he is likely to comply first and consider your reasons and rights afterwards. His curiosity is aroused, not his resistance. Direct him to cease doing whatever he is occupied with, using the same tone of authority, and he instinctively resists the command, often stubbornly refusing. This need not be proved to parents. A "thou shalt not" law, unsupported by wide public opinion, creates antagonism, and can not be enforced. Public support must be obtained, and police clubs are not the way to obtain it.

In the enforcement of prohibition there has been little or no recognition of this fundamental principle.

Whereas prior to the adoption of the eighteenth amendment all of the various "dry" or "temperance" agencies employed persuasion and appeals to reason and moral sense to win converts, and did so with a large degree of success, no such tactics have been used on a large scale since. Police power has replaced reasoning power; we have been compelled, not converted.

The average citizen, his mental equipment reacting in a perfectly normal way, sees himself losing something he formerly had (whether he ever used liquor or not, sees his range of possible activities restricted, feels his rights infringed. He sees himself as a loser—not a gainer, by the enactment. The reaction of some is expressed in the statement, frequently heard, that "He never drank until the law said he couldn't."

You can take a bone from a dog with safety only by giving him a better one.

In other words, the prohibition law has not been "sold" to the American people. It has not been pictured or interpreted to them in terms of tangible, intellectual, material, personal, and immediate benefits. The authors of this plan maintain that it can be. The benefits are so real, of so great value, with so much appeal to the individual's selfish interests that when they are properly presented to him he will demand them.

As we have said, an American can be converted but never compelled. He can be lead but he can not be driven. The lash must be exchanged for the leash, and the leash that will lead him is a picture indelibly impressed on his mind of the profit and benefits he will enjoy under the proper functioning of the prohibition law.

To make the American public as a whole accept the eighteenth amendment and the Volstead Act as a positive benefit, to be eagerly and earnestly embraced, is an educational enterprise. Every instrument and medium for influencing the popular mind must be used; but in the opinion of the authors of this plan, one instrument is of the surest and swiftest efficiency.

It is modern advertising—regarded by most business men as the greatest single instrument of influence in the world to-day. The public school, the pulpit, the platform, the press—none of them can reach so many minds so quickly, so convincingly, so cheaply as does paid advertising. Unless this were true, unless commercial advertising were the most efficient means of influencing men, economic forces would have prevented its rapid development.

This plan recognizes the value of constructive educational work in this campaign in the public schools. It contemplates coordinated effort by pulpit and platform speakers. But these are not part of the plan. These agencies for leading the public mind have always existed, but have not by themselves been sufficient since the passage of the eighteenth amendment to stem the adverse tide. Their range of influence is too limited; their appeal is for the most part to classes who do not need the influence.

MACHINERY OF THE PLAN

Under this plan an agency will be created which will be under the direction of citizens who command the respect of the Nation. They might be appointed by the President of the United States, if this plan won the approval of the President or of Congress. They might be selected by an independent group of citizens, if the development of this plan should be left to private effort.

The agency or group thus created would employ a staff of trained and experienced advertising executives, who would be directed to apply the same intelligence to this problem that is now applied to the sale of radios, automobiles, soap, and other commodities. This group would function in the same way as a commercial advertising agency. It would sell to the American public, through the same media, by the same methods, the benefits, advantages, and blessings of the dry law, just as nearly every other kind of goods under the sun is sold to them—and sold so effectively that the American people work harder, earn more, produce more, and consume more than any other people on earth.

Can these benefits be sold by advertising? Can a man be induced to give up the immediate pleasure, a cocktail, for a further benefit, such as better health? Can a savings bank account be sold at the expense of a bootlegger's bill? Can health be sold? Can happiness be sold? Can better homes be sold? Can better automobiles, better radios, and better food be sold? Can character and reputation be sold by advertising?

These have been and are being sold to-day. By advertsiing. Savings-bank advertising, as an institution less than 20 years old, is held largely responsible for the tremendous growth of savings deposits. Life-insurance advertising, a relatively new member of the group, is enlisting thousands of new policyholders. It is stoutly maintained by the authors that the benefits of the eighteenth amendment and its supporting law can be sold by intelligent advertising, and that through such advertising it can be sold more quickly and cheaply than by any other known means.

Under the direction of the proper leaders, as suggested above, the style of advertising, its psychological basis, its graphic form, its timing, its placing, its entire control will be governed by the utmost practical skill, in order to avoid waste of time and money, but principally to avoid loss of interest in, belief in, influence of, or respect for the campaign. Any effective campaign would necessarily be months in preparation before the first advertisement appeared. The staff would work far in advance of schedules; results would be observed carefully and plans changed as the public reaction indicated.

Every suitable form of media would be used. Newspapers in every locality, in every language. Boards, poster and painted. Motion pictures, possibly radio. Magazines, both weekly and monthly. Full-page insertions would be the rule. One page per week in newspapers and weekly magazines, and one page per month in monthly publications is suggested, subject to control by the agency.

Based on the cost of several well-known national advertising campaigns conducted by commercial or manufacturing companies, the authors estimate the cost of such a program at approximately $20,000,000 annually. The money might conceivably come from funds diverted by the Treasury Department from the present Budget available for enforcement through the police power. The authors have

sufficient confidence in the plan to suggest that the use of this sum in this way would be vastly more effective than police power of the same expense.

There may be delay and difficulties in obtaining funds from Congress. But we are confident that the money could easily be obtained from business men purely on an appeal of self-interest. The liquor traffic is a colossal drain on the purchasing power of the people. Neither radio nor an automobile can be sold to a man whose surplus is taken by bootleggers. In the so-called new competition, industry competes with industry. Why can not all legitimate business unite in self-interest to fight the bootleg liquor industry by altering the habits of the bootleggers' customers? We believe the American business men, moved partly by the desire for an improvement in the well-being of the American people and partly by self-interest, will see merit in our argument and proposal.

This campaign would probably—indeed, almost certainly—have to continue for 20 years. But it would taper off and disappear.

Is there any evidence that the Federal police function, devoted to the attempted enforcement of this now unpopular law, will ever be sufficient, much less become in time unnecessary?

One word more about copy. Copy is to be the key of the success of this campaign. Copy is the product of research, scientific analysis, genius, artistry, understanding of human nature. Do not think of it in terms of temperance lectures in the form of printed advertisements. We want no pictures of drunken men. That is farthest from the authors' conception of the technique needed.

We believe that public opinion can be so deftly cultivated that the liquor flask will cease to be tolerated at clubs and public places, and a bottle in a traveling bag will be disapproved by business associates. Within a year after this campaign is under way we suspect that brazen bootleggers will no longer be smilingly received in the offices of respectable citizens. Leaders of American thought and action are in a mood to give their influence to genuine temperance. An alert business man, knowing the potentialities of advertising, would seize this moment to accomplish any purpose if conditions were as favorable for it as they are for nation-wide effective prohibition.

Before the prohibition law was enacted the field of battle between the dry and wet forces in the country was charted. The "front" was defined. The enemy fought in the open. The dry forces, employing appeal to reason and moral sense, were making great progress.

Almost overnight an amendment and an act were passed outlawing this "war." The front lines disappeared, but the enemy did not disappear. The new enemy flies no flag, fights "out of uniform," recognizes no law, not even the laws of war. It is spreading corruption, poison, and death through secret, uncontrollable, ever-widening channels. Against it the individual is powerless without the united support of his fellow citizens.

There is only one all-compelling motive strong enough to unite the people of this country in active militant support of our dry laws. That motive is self-interest. That can be awakened only by showing in their most attractive forms the benefits that can be enjoyed under the proper functioning of our present laws. Showing all the people quickly, pleasantly, honestly. Leading them by convincing them.

You will receive many plans dealing with the technique of enforcement. Any plan that places the accent on the syllable "force" leaves out of account the fundamental factors of human nature and our American temper. Force alone can never be successful unless the backbone of the average man becomes so weak that he is no longer worth saving.

The successful plan will recognize that one law can lead a people to water but a hundred thousand law-enforcers can not make them drink it.

ORGANIZE CONTINUING EDUCATION

By Richmond P. Hobson, Los Angeles, former Congressman from Alabama

The plan consists in developing agencies to organize, mobilize, and direct the forces of effectiveness and to disintegrate and overcome the forces against effectiveness. The foundation for effectiveness is laid through two education organizations; one to advance alcohol education for the youth and for the public; the other to advance similarly respect for law and authority. A fighting organization is set up with two main departments to organize and apply the power of education and public opinion and the power of law, respectively. A finance organization is organized to provide the sinews of war.

PRELIMINARY SURVEY

Power for effectiveness lies in the attitude and the will of the people and in law mechanism to carry out that will. Power against effectiveness lies in the profits and resources of the legalized liquor traffic of the outside world and of the bootleggers within America, rooted in social drinking customs as old as the race and enmeshed in the revenue policies and politics of the governments of all other lands.

The eighteenth amendment by the Rhode Island decision is an integral part of the Constitution. No amendment to the Constitution has ever been repealed. To the enforcement of the eighteenth amendment, the Constitution itself calls the States as well as Congress. To the enforcement of the other amendments and of the original Constitution, only Congress is called.

THE UNDOING OF AMERICA

Unable to repeal the eighteenth amendment the objective of enemy grand strategy will be to undo America by any means and lay the undoing to the eighteenth amendment as a warning to other nations. The most destructive agent is the alcohol being forced into the Nation in a siege along our coast lines and frontiers.

The next most destructive agent is propaganda that poisons the minds of the people and develops a lawless attitude in good citizens, a feeling of resentment toward the eighteenth amendment and the laws in pursuance thereof, and a general disrespect for all law and authority. Abroad, the enemy will patiently conduct a world-wide propaganda against prohibition, and against America, until all other peoples come to hate us. This is happening. Upon this attitude of hate, sufficiently developed, could be built trade wars, financial and military wars.

The grand strategy for the defense, therefore, is to organize and develop education processes to cause the truth about alcohol to reach our people, and as far as practicable, the people of the world. This is the field for a scientific organization to which all can adhere. Similarly, organized education processes should be developed for advancing respect for law and authority, to which likewise all can adhere. The truth about the liquor traffic and its sinister designs and conscienceless methods in part of the fighting processes. As public sentiment arises under processes of education, more and more the processes of law, Federal, State, municipal, can be coordinated, standardized, and applied with ever rising power to the bootleg outlaws. The same wrath of aroused public opinion is the best agent to take care of those who continue to associate themselves with the liquor outlaws as enemies of their country's constitution.

ETERNAL VIGILANCE

The struggle will not be over until the liquor traffic of the world lies dying. It is said to take as long to cure a disease and recover from its effects as the time the disease has run. Ignorance on the part of any future generation would open the body social to a new outbreak of this alcohol disease. To make the eighteenth amendment effective, the forces of defense must be organized on a permanent basis.

THE PLAN

The following are the logical names:

1. International alcohol education association.
2. The American association to promote respect for law and authority.
3. The eighteenth amendment association.
4. The eighteenth amendment finance corporation.

The four corporations, under the guidance of high counsel, should be incorporated under the laws of a State, say, of New York, as organizations "not for profit." In later stages, one or more of these organizations might well be chartered by Congress. Both the alcohol education association and the law and authority association should be entirely free from affiliations with fighting organizations, and should be pledged in their articles of incorporation to take no part in the prohibition fight or in any other controversial matter of public policy. Thus they will command adherence from good citizens and constructive organizations regardless of their differences on prohibition or other controversial matters.

The eighteenth amendment association is the essential fighting organization and should be incorporated with the broadest powers to organize, develop, stimulate, mobilize, maintain, and operate forces and processes now in existence and new forces and processes found necessary or expedient to effect the purpose of the association, namely, to make the eighteenth amendment effective.

All three operating organizations should have power to raise and expend funds, including endowments and trust funds for their own respective purposes. Mr. Durant, singly or with a group secured by him or appointed by him, should underwrite the organization expenses and the operating expenses for a reasonable time until the financing is placed upon a sound and firm basis.

This organic individual or group should cooperate in choosing the incorporators, and these in turn, the board of directors, who in their turn should select the president, and with them arrange for the selection of other executive officials, taking care to insure that the education organizations have no officers or directors interlocking with the fighting organizations.

In view of the prospect of a long period of siege, the board of directors in each case should appoint a board of trustees and plan for securing and administering trust and endowment funds to insure permanency of support. Foundations and endowments should become practical as the organizations develop, and professional money-raising firms can be engaged to raise same. No one can foretell what the conditions may be centuries hence, so in case of all trust and endowment funds it is well to provide for the eventuality of using principal as well as interest.

THE FINANCE CORPORATION

The key corporation is the eighteenth amendment finance corporation. The success of this corporation will insure the success of the plan. Mr. Durant himself should take this corporation under his especial care and choose its incorporators and board from the foremost leaders in the business world, commanding confidence of the Nation for ability and integrity. The articles of incorporation and the by-laws should be drawn with the greatest care and skill to insure full power to raise funds in all honorable ways and at the same time provide for needed safeguards. The board should promptly build up a finance council with representatives of all important fields, like insurance, banking, steel, oil, motors, radio, screen, etc. This council should prepare a general plan of quotas from the various fields. The councilmen from each field should choose a committee from the field to allot the quota among the firms and appear before the boards of the principal firms. A special committee should be appointed to systematically canvass philanthropy, including foundations. A special committee should be appointed to procure the appropriation of public funds, Federal, State, municipal, and funds from public and semipublic corporations.

The organic person or group, or else the finance council, should underwrite the funds necessary for initial expenses for a professional money-raising firm of high standing to organize the raising of large funds, and leaders already chosen or to be chosen as representing large groups, should arrange for the help needed for the set-up. There is every reason to believe that this campaign or drive, carefully planned, would be successful and solve the major financial problems at the start. Control of large funds will give this organization especial influence in bringing about the affiliation and cooperation of organizations now in existence or to be created.

STRUCTURE OF THE OPERATING ORGANIZATIONS

The international alcohol education association should have two departments, one for the youth in the home and in the school, the other for the public, and should build up four groups of committees, one on organization, one on data, one on documents and methods, one on agencies. The fourth group should organize for disseminating alcohol information throughout society, and should put on alcohol education week once in each year, in which all the great agencies of information should take part, including clubs and constructive organizations of all kinds. In its various committees this association should federate and harmonize existing agencies of alcohol education.

The American association for the promotion of respect for law and authority should be organized along similar lines and should undertake especially to federate, develop, and stimulate the cooperation of existing patriotic organizations, fraternal and other associations, business, industry, professions, and should enlist the cooperation of homes, schools, colleges, Sunday schools, etc. Its two departments should be the same as those of the previous organization, one for the youth, the other for the public. Both of these organizations should commend the ever increasing support and cooperation of Federal, State, and city governments.

THE EIGHTEENTH AMENDMENT ASSOCIATION

The fighting organization should set up with two principal departments, one for processes of education, the other for processes of law. The department of education, through committees or bureaus, should take up and put forth lines of education for fighting purposes, and federate all education agencies now existing and create new ones as needed, to rout all the favorite lines of enemy propaganda, showing that the law is not intended to invade the home or individual liberty, but to exclude from the channels of trade the exploitation of commodities that, instead of giving value received, harm the individual; that our country is under siege by a ruthless foreign foe; that our troubles are not due to the eighteenth amendment, but to this organized, resourceful, and unscrupulous enemy. Especially should this education expose the enemy's supreme defiance that we can not enforce our own Constitution in our own country; that we are not master in our own house.

The law department should set up bureaus or committees for taking up processes of law of the Federal Government, then processes of law of the several States, then those of counties and municipal ordinances, should finally coordinate all processes of law, making a survey of existing laws and the degree of their enforcement, and from these work out plans for developing, standardizing, and applying more and more the full power of the law, driven on by an ever rising imperious public opinion. This department should cultivate intimate relationship with the governments, Federal, State, municipal, and utilize, like the department of education, the power and instrumentality of existing organizations and activities, temperance, prohibition, church organizations, etc.

LIBERALIZE THE VOLSTEAD ACT

By D. J. Brimm, professor of Bible and religion, Presbyterian College of South Carolina, Clinton, S. C.

The eighteenth amendment is all right. Good has resulted from it despite farcical enforcement. The people wanted it; still want it. We know that, properly interpreted, it can be enforced and accomplish its purpose of saving men and women from themselves, saving wives and children from sottish men, saving rising generations from becoming addicts of alcoholism.

The trouble is with the present interpretation of the amendment, called the Volstead law. It is an expression of fanaticism. We showed "a zeal without knowledge." We hit the line too hard, with disastrous recoil. We threw down a challenge that aroused the spirit of adventure fostered by the spirit of greed. Result: Lawlessness, bootlegging, gangsterism, official corruption—the crime wave, purpose overreached. Any kind of liquor can be gotten almost anywhere, from the vile poison stuff of the back-alley bootlegger to champagne and absinthe. Vanished the saloon; arose the cabaret, the club, the roadhouse, the speak-easy—a nest of vipers in place of the serpent.

Many of the "best people" are not in sympathy with the Volstead law because of its fanatical extremism. "One-half of 1 per cent in volume" is practically equivalent to none. Hence the evil of violation and nonenforcement is notoriously and steadily on the increase. Prominent people as well as riffraff are resistant.

Another notorious fact is that many of our lawmakers and public officials in Washington and in all the State capitals—and the capitols as well—are regular and scarcely covert violators. What an example to the young in respect for law! What a tragedy if we do not take a more tenable position before it is too late! Nonenforcement, corruption, and light sentences beget a contempt for law. We have to deal with people as we find them—a situation, not a theory. Americans are peculiarly jealous of their personal liberty; the age is individualistic. Education of the masses up to an ideal is a slow process. Extreme action often results in disastrous reaction and thwarts its purpose.

Another consideration: Great numbers still accept Bible teaching as authoritative. Bible teaching in its entirety is not teetotalism or absolute prohibition, but temperance—temperance in all things. All admit the benefits—social, moral, and economic—inuring from temperance. Hosts who voted for the eighteenth amendment and who would yet refuse to vote for its repeal expected a strong temperance law, but nothing so drastic as we got. For eight years we have tried an experiment, but it has failed because it went too far. When an attack has been made and repulsed, common sense dictates that we fall back to a tenable position and re-form before we attempt further advance; otherwise, we may be routed and vanquished.

The Volstead law could have been better enforced had it been better formulated. We now propose a new law as an interpretation of the eighteenth amendment and for its enforcement, with features that will make it enforceable and will cut the foundations from under the extensively organized bootleg system. We list the provisions and requirements consecutively under certain comments.

I. This country is unique in that sovereign States delegate certain powers to a central Federal Government while reserving all others to themselves. In legislation for the common weal there is need of complete cooperation between the several State governments and the National Government. The second section of the eighteenth amendment provides for this harmonious cooperation, whereas the Volstead law practically ignores the sovereign States, mentioning them incidentally only three times. There must be cooperation for success. The States differ in conditions, type of population, and outlook. In such cases there must be more or less of compromise and flexibility for the best results. Then—

1. Allow the several States to determine by law the alcoholic content of wines and beers to be used in their respective bounds, up to, say, 7 per cent, by weight, which does not produce intoxication. A person can hardly drink enough to become intoxicated or to injure himself by habitual use. Some States would, by popular vote, probably make the limit only 3 or 4 per cent, while others with a different type of population would, perhaps, allow the full 7 per cent. It is understood the Supreme Court would not interpret a 7 per cent beverage as "intoxicating."

2. Beverages to be tested and supplied from a central distributing house at the capital of the State.

3. In each incorporated town, with police force, up to 5,000 population one dealer commissioned to handle these beverages and an additional dealer allowed for each additional 5,000 or considerable fraction thereof, on request of city council.

4. Goods for sale subject to frequent test by certified testers without advance notification.

5. Each State to enforce its own law within its own borders in case of transportation from a State allowing a larger content, and to be assisted on request by national enforcement officers.

6. Sworn and heavily bonded distillers, brewers, and importers licensed and carefully supervised by the National Government.

7. Intrastate violations tried in State courts and punished in State prisons; fines and forfeits to the State. Interstate violations, or violations by national enforcement officers, in Federal courts and prisons; fines and forfeits to United States.

II. In accordance with the spirit of this amendment and the incident laws, it is desirable to discourage the use of alcoholic beverages as

much as possible, even when the alcoholic content is small. To this end—

8. Goods must be sold in an open storeroom, with no bar, in sealed packages, and no drinking allowed on the premises. Clubs, cabarets, and road houses must get their goods from local or nearest adjacent dealers and sell in the same way with exception provided in number 24, and with further exception that packages may be opened on their premises under proper restrictions.

9. A heavy Government tax and an additional State tax on every gallon or part thereof, to cover costs of management and enforcement. The revenue idea should not be emphasized—no urge to promote large sales.

10. No advertisements of any type allowed.

11. Prices of dealers regulated by State law.

III. It is always best to avoid the infringement of personal liberty so far as is compatible with the spirit of a law and with the general welfare. And so—

12. Permission granted, upon sworn avowal, to make beverages of legal content for one's own private use exclusively; samples to be furnished and tested and taxes paid. Unfermented juices not taxed.

13. No restrictions as to quantity of permissible beverages one may buy or make for his own use so long as he keeps within the law, nor to his giving—bona fide giving—to others; but this does not apply to those running public houses. In case of suspicion arising that a party has further fermented or distilled to increase alcoholic content, he may be required to allow further testing, and, if found guilty, treated as a violator.

14. Private stocks in actual homes not subject to raid, search, or seizure, except as specified in No. 13.

15. Sale to minors prohibited or regulated.

IV. A law to be respected must be rigidly and rigorously enforced, without distinction between rich and poor, between white and colored. It must "have teeth." It must have provision for checking and counterchecking. It must have penalties that are deterrent and can not be scouted or circumvented. Hence—

16. State distributors and local dealers to be sworn and bonded officers of the State with police authority to see that the law is enforced and with right to call on local, State, or national enforcement officers for assistance in apprehending violators.

17. State and national enforcement officers to be sworn and heavily bonded and to be changed frequently from one district to another of the State or Nation, respectively.

18. Anyone reporting infractions, with clews and facts, to remain unknown to the public, but to receive $10 for each ordinary case and $50 for each case of infraction by a sworn officer, upon conviction of the offender—to be paid with New York checks from the State capital or from Washington according to jurisdiction.

19. Distributors and dealers sworn to report violations, assisted in finding and apprehending offenders and rewarded in case of conviction.

20. Distinction must be made between obviously intentional and obviously unintentional violations, the presiding judge to decide.

21. Penalty for making, importing, or selling contrary to this law or without authority, a fine of $1,000 and imprisonment for one year at hard labor for each offense, and no concurrent sentences. In case of inability to pay fine, three years imprisonment for each offense. Confiscation of all equipment and appurtenances. For making or selling vile, poisonous, or deleterious stuff, double the other penalty. For subsequent offenses in either case penalty doubled, trebled, etc., according to the number. No pardon, parole, or commutation.

22. Penalty when a sworn officer is convicted of any violation or of conniving at such, five years' imprisonment with confiscation of stock and equipment and with forfeiture of bond. No pardon, parole, or commutation. No subsequent employment as an officer in any capacity.

23. Whisky, brandy, or alcohol for medicinal purposes furnished to doctors of medicine in half-pint sealed packages upon their written statement for whom and for what cause and with restrictions as to frequency. Doctors violating this provision fined $100 for each offense.

V. Other provisions:

24. Along with meals eating houses may furnish, as per menu card, wines and beers of legal content by the glass—size to be specified—not more than three to one individual on one occasion, and to the same person not oftener than at 4-hour intervals. They may charge whatever they choose to assess above cost and must sell under a special license and under pledge.

25. Only sworn, bonded, and licensed dealers may sell, except as in 24, and no officer, dealer, or keeper of an eating house may solicit anyone to buy or use. If he does, discharged or license withdrawn.

26. One charged with offense tried by a jury, but a majority may convict, and a judge convinced of guilt may instruct the jury to return a verdict accordingly and adjudge them in contempt if they fail.

27. States recommended to make intoxication (defined) a public offense punishable with heavy penalty and the intoxicated party kept in jail up to a year's limit till he tells from whom he secured the liquor, so that the offender may be brought to justice.

28. Pure alcohol for the manufacture of extracts, medicine, etc., and for industrial purposes supplied by State distributor on special statement of a competent chemist, and a sworn agreement to use only as represented.

29. Other matters in the Volstead law not replaced by specifications here to be reenacted in this law.

30. The Volstead law and its execution operative till the hour and minute when this law goes into effect.

31. States requested to enact laws pursuant to this, and make all provisions for enforcement at the next meeting of their legislative bodies and the date when this law becomes operative set for a date subsequent to adjournment of the last of these legislative assemblies to meet.

32. In case a State refuses to cooperate in this matter Congress will continue the Volstead law in operation in said State with the machinery for its enforcement by national officers.

33. Each State to publish its law periodically in all newspapers of the State.

CONCLUSION

This law will furnish a system by which everyone is checked and counterchecked, and it is in the interest of everyone to check on others without spying on them or trying to trick them; but it will be to the interest of bonding companies, through their detectives, to see that those they bond keep straight.

MULTILATERAL PEACE TREATY

The Senate, in open executive session, resumed the consideration of the treaty for the renunciation of war transmitted to the Senate for ratification by the President of the United States, December 4, 1928, and reported from the Committee on Foreign Relations, December 19, 1928.

Mr. REED of Missouri. Mr. President, the pending treaty has been debated at some length. I had hoped to avoid saying anything regarding it, because it was anticipated that either a clarifying report of the committee might be made or that clarifying resolutions might be agreed upon. The negotiations or talks between Senators have not progressed to a fortunate conclusion and I therefore feel impelled to impose myself upon the Senate. I appeal to the Members of the Senate to look well into the treaty before they advise and consent to its ratification.

I am aware, sir, of the embarrassment of the situation. Our Secretary of State invited the chancelleries of the earth to sign this document. He did so without consulting the Senate. He did so without any previous general public demand. He simply evolved this instrument and proceeded to the point where he had asked all of the nations of the world to sign it before he submitted it to the judgment of the Senate, which in the end is the responsible party to such a contract as this.

Now we are told that because those steps have been taken, we must accept the treaty without the dotting of an "i," without the crossing of a "t," without expressing our opinion in any way except forsooth that we may be permitted to stand upon the floor of the Senate and say what we think the treaty means, and there are as many different opinions as to its meaning as there are Senators upon this floor.

Many of the Senators agree upon one proposition, and many may agree upon another proposition, but no two men in the Senate, I undertake to say, have exactly the same views touching this instrument. Yet the general statement has been made that the instrument does not do certain things; and all that has been asked by those of us who have labored here to reach a composition has been that we shall say in some official way the very thing that the Secretary of State says this treaty means; the very thing that the chairman of the Committee on Foreign Relations says it means; the very thing that it is pretended here that it indubitably means. If that be true, then we are not asking to change its terms or to alter it in any respect, and anything we may do that is consistent with the treaty can by no possibility destroy or injure the treaty.

Mr. President, I do not know that I can state this case as plainly as it has been stated, but briefly I should like to run over the various views that seem to be entertained by some people in the United States.

This so-called Kellogg multilateral treaty proposes in about six lines to abolish war—war of every kind. The various signatory nations solemnly agree to renounce war as an instrument of national policy. If the words of the treaty are to be taken at their face value, no nation can in the future levy war for any purpose whatever, offensive or defensive. The treaty has been exploited throughout the country as the outlawry of war. It is proposed to be signed by all of the nations, big and little, civilized and barbarous. Its proponents advance two lines of argument, each contradictory and destructive of the other. There is also a hybrid argument which combines the vices of both and so is devoid of the virtues of either. To a consideration of these various claims I invite your attention.

We are told by one class of treaty advocates that the treaty will usher in the millennium, that the dream of ages is about

to be realized. Swords will be beaten into plowshares and spears into pruning hooks. The roar of cannon will be supplanted by the chime of Christmas bells, and war's grim visage assume the lineaments of the countenance of Christ. These enthusiasts argue that the treaty binds all nations never to make war; that all nations will keep the faith of their promises, and, ergo, never again will the iron chariots of Mars sweep across the earth's peaceful fields. If the syllogism be correct, then he would be a monster who would not acclaim the treaty as the holiest document ever promulgated by man. It would, indeed, be greater than the commandments delivered by God amidst the thunders of Sinai, for it would accomplish the ordinance "Thou shalt love thy neighbor as thyself." It would be greater than the Sermon on the Mount, for it would bring to fruition the peace and good will for which Christ prayed and for which the ages have waited. What the proclamation of Sinai did not accomplish in 4,000 years, what Christ's teachings have not achieved in 20 centuries of time, is to be produced by the magic stroke of Mr. Kellogg's pen.

There is a class of doctrinaires who hold that a law or resolution is a universal solvent of all human ills. At that point, Mr. President, imbecility approaches sublimity. These people conceive that safety is to be found in helplessness, and that the best way to suppress burglary is to leave the doors unlocked and discharge the constabulary. A majority of those outside of the Senate who now clamor for immediate ratification have never read the treaty, short as it is; but few have examined the historic and diplomatic background which must be regarded when treaties are made.

A still smaller number have considered the declarations made by different governments in qualification of their adhesion. Nevertheless, the declarations made by the representatives of foreign governments acting for their signatories must be taken as conditions running with the pact. Read in that light, the treaty assumes an entirely different aspect from that which is reflected by the words of the instrument itself.

Upon its face the treaty proposes a complete abandonment of all war; but the negotiations had scarcely been begun when Mr. Kellogg began to admit exceptions. I want to invite your attention now to those exceptions and let us see what is left of this pact when we shall have subtracted the exceptions from the total of its alleged promises.

First, we except defensive wars. They are not excepted by the terms of the treaty. We read that into the instrument; we say it is inherent in all instruments; but there is more included here in what has been specified and defined as defensive wars than the people of the world understand to be defensive wars. I mean specified and defined by the advocates of this treaty upon the floor.

First. Defensive wars, they say, means the right to defend territory from attack;

Second. To protect trade and commerce everywhere;

Third. To protect nationals on sea and on land; and

Fourth. The invasion by armed forces of the territory of a foreign country for either protective or punitive purposes. The examples of that which have been given are the Boxer invasion, which we are told could take place under this treaty; the Mexican invasion, which we are told could take place under this treaty; the Nicaraguan invasion, which we are told could take place under this treaty; and the recent Chinese invasion, which we are also told could take place under this treaty.

We are further told that it implies the right to make offensive defensive war; that is, to make the initial attack when it is for a defensive purpose;

Further, that it involves the right to defend all national interests;

Further, that it does not interfere with the obligations of something like 50 nations who are parties to the League of Nations covenant;

Further, that it does not interfere with the obligations of the nations under the Locarno pacts—and both the League of Nations and the Locarno pacts are solemn agreements to make war under certain conditions which are not wars of self-defense and never could be so construed under the ordinary meaning of the term "self-defense";

Further, all other treaties and treaty obligations are excepted that have been mentioned—and I think they have nearly all been mentioned—

Further, that each nation is to be the sole judge in its own case as to what constitutes self-defense. That is to say, whenever any nation conceives that it ought to do any one of these things for the purpose of protecting its interests, that that is a war of self-defense. Finally, we are told that there are certain zones of influence where at least one nation claims the right to complete freedom of action, not the complete freedom of action that would ordinarily spring from the terms of the treaty itself and from the ordinary doctrine of self-defense, but something in addition to that, else the condition would not be made; and that freedom of action to defend territory, to defend trade, to defend the rights of nationals, and to continue to exercise influence and dominance over lands that are subject or partially subject is asserted by Great Britain.

Now, Mr. President, let us see what Great Britain has excepted from this pact. Here before us is a map; I wish it were larger, so that everyone could see it; but it embraces the world and every foot of the seven seas. The red is British territory, claimed or held by her absolutely under her domination. The barred portions are conquered countries or countries that are held in subjection by the power of Great Britain.

No one will deny, under the interpretation which has been given to this treaty, that she has the right to defend all of the part that is in red. No one will deny, under the interpretation which has been given to this treaty, that she has the right to take any protective measures she sees fit for the purpose of defending as she may construe it every inch of this territory that is in red; and that means the waters that are adjacent.

Beginning over here is India, with her 350,000,000 of people. There are British fortifications at these points, and no nation can send a vessel to India without substantially passing under the guns of the British fortresses of Bombay, Trincomalee, Rangoon, and Singapore.

At this strategic point in the Indian Ocean is another fortress, Colombo. These small red dots that you see are islands controlled by Great Britain, everyone of which can be used as a naval base or as a base for flying machines.

When we pass to Africa, we find that the entire eastern coast, except a very small portion, is controlled by Great Britain. Over here, at the mouth of the Red Sea, she has her fortresses, Aden, and her claim of land. I am pointing now to Port Said at the entrance to the Red Sea, where an English fortress stands. To the immediate north is Egypt, with its 14,000,000 people, every one of whom protest that Great Britain is there not of right but of wrong, and that she holds them in the thraldom of her iron grip.

We find on the west side of Africa the whole southwest portion under the control and ownership of Great Britain. Going a little farther north, we come to the Suez Canal, which Great Britain controls by her fortifications.

Passing along the north of Africa, we find her fortifications again; so that she can command the Mediterranean Sea and all of the waters of the Mediterranean Sea by her fortifications at Gibraltar and Malta.

Passing farther to the north, we find there the British Islands themselves, and the claimed dominance which she has exercised there for centuries of time.

Let us go over to Australia. Here is not only Australia but the vast archipelagoes, with their thousands of islands. Here again we find British fortresses—King George Sound, Sydney, Aukland—commanding the sea.

Pass a little farther over, we find English possessions asserted in Borneo; and we then come to the great fortresses that she has constructed and is constructing at Hong Kong and Singapore. So England commands the waters in those seas, and there her vessels in time of war can find safety, and there the vessels of her enemy can find nothing but death and destruction.

Let us cross to our own side of the water.

Here in Canada, with her eight or nine million British subjects, and, so far as I know, more loyal to the British flag than the inhabitants of London or of Liverpool. Certain it is that in all the war no people rallied with greater unanimity, none fought with greater courage, than the soldiers of Canada. They cover our line at the north completely. They extend to the Arctic Circle. There is enough land there for fifty or a hundred millions to reside upon; and who shall say that in the course of the next 50 years there will not be 50,000,000 loyal Britishers in Canada?

Let us see how that further affects us.

Here, at this point on the east, lie the harbor and fortress of Halifax. In those waters England can establish, maintain, and protect her entire war fleet, or any part of it, and in one night's time can reach great cities on the American coast and subject them to bombardment and to destruction; and those waters are fortified.

Dropping down a little farther, we find the Bermudas, the key position from which a hostile nation can strike New York or ravish our entire coast; and the Bermudas are fortified. At whose heart are the cannons of Bermuda aimed? What nation's interest is involved there? Would Great Britain permit a fortification of that kind by a distant nation so contiguous to her coasts as Bermuda is to ours?

Let us go a step further.

This dotted line of red is a series of islands owned or controlled by Great Britain. They stretch in a semicircle from the coast of Florida to South America. Within that semicircle is embraced the Panama Canal. At this point lies Jamaica, the key to the canal, the fortress controlling the canal; and it is fortified by British guns. At whose heart are those guns aimed? What nation has Great Britain in mind when she still maintains her fortifications there?

From Jamaica, in five hours' time, a fleet of airplanes can destroy the Panama Canal. If our national fleet is divided, part of it in the Pacific and part of it in the Atlantic, and it becomes necessary to concentrate that fleet, in five hours' time Great Britain can destroy the Panama Canal.

She can prevent the consolidation of our fleet. She can destroy it then by piecemeal; and she reserves all these zones. She does not tell us where they are; but if we ever have difficulty with Great Britain—which, God knows, we all hope will never come—it is certain that the expression of Sir Austen Chamberlain used in the signing of this treaty, "There are certain zones of influence," will mean the West Indies, will mean Jamaica, will mean the Bermudas, will mean every part of the seas where she has a fortress or where she has a landholding.

We may close our eyes, we may smile, but it will be no smiling matter if ever we should come to grips with this nation that has dominated the sea for 500 years and that proposes to dominate it for the next 500 years.

If we try to pass around the Horn to consolidate our fleets, there lies the station of Port Stanley, from which point British ships, having been concentrated, can strike our vessels when their fuel is nearly exhausted.

Going up the west coast, you find that at this point, just at our northwestern border, lies another British fortress, Esquimalt, near Vancouver, and back of it are impregnable waters where the British fleet can lie in safety, and where guns can be planted in a week's time so that no power we possess can ever oust them, unless they are attacked from the land side—waters that are as impregnable as were the waters of the Bosphorus when they were defended by two or three companies of Turks armed with guns taken from the *Emden*, and where the British fleet went to disaster and almost destruction.

This, then, is what Great Britain says is not in the treaty—that she reserves special rights and full liberty of action. When she says she reserves full liberty of action in all of these waters, the mollycoddles of this country are willing to say that we shall not say that we reserve the Monroe doctrine! We shall sit silent; we shall not open our lips; we shall sit silent, because, if we speak, South American countries will not sign!

This country is never going to be destroyed by warriors. This country is going to be destroyed by pacifists and traitors if it is ever destroyed, or destroyed by well-intentioned men who think they are not pacifists, but who play into the hands of every pacifist there is, from the anarchist societies of Russia that deny the duty of any citizen anywhere to defend his country to the mild-mannered and gentle-tongued gentlemen who go about crying "Peace! Peace! Peace!" when there is no peace of the kind they are talking about.

So that is excepted by Great Britain, and specifically excepted. There, it must be understood, we retain full liberty of action. There, we insist that the right of self-defense embraces not only our lands in the ordinary sense but there we insist that we have some other and additional rights, particularly as to these countries lying here.

So you subtract that exception from the general language of the treaty, and you have not, as far as Great Britain is concerned, anything left.

Then they except the Locarno pact, and the Locarno pact is a pact between a number of nations not that they will fight in their own self-defense but that they will fight to maintain a status quo, to compel Germany to continue to submit to the conditions forced upon her. Of course, Germany signed it. Of course, she signed the Versailles treaty. Of course, she signed, as every sensible man knows, with a bayonet pointed at her heart. I am no advocate of Germany; I voted for the war, I voted for every man and every gun we sent there; but I know that this great and proud people, this mighty people, will not forever submit to the fixation of a road that cuts her in two, or to the onerous conditions that have been imposed upon her.

We go further than that. We except from the terms of this treaty all of the conditions of the League of Nations. I am not dragging that in here to rediscuss the League of Nations, but let us see what the exception of the League of Nations pact takes out of this treaty. It leaves 50 nations or more, practically every nation except ourselves, having solemnly agreed to maintain the status quo, having solemnly agreed that any war or threat of war by any nation anywhere shall be justiciable by the league, and that the league may take such action as it sees proper; and leaves to the council of the league, or some of its bodies, the decision as to who is right and who is wrong, just as the Locarno pact leaves to the Council of the League of Nations the decision as to who is right and who is wrong. The decision having been rendered, provision is made for imposing the conditions of the decision on the nation adversely decided against, and those provisions, as we all know, are provisions for war; not war in defense of a country's territory, not war in defense of a country's trade, not war in defense of a country's nationals, but war in defense of the status quo. Take that away from your treaty, and will somebody tell me what you have left? What have you left?

Mr. President, as thus construed, the provision that we will never make war under any circumstances or conditions dwindles to this: Every nation has the right left to make any kind of preparation deemed proper or necessary; two, to match armaments against armament in preparation; three, to match armies against armies in preparation; four, to match navies against navies in preparation; five, to match airplanes against airplanes in preparation; six, to match poison gases against poison gases in preparation; seven, to match alliances against alliances in preparation, and to assert that all of those things are matters of self-defense, and to employ them in self-defense, the nation concerned to be the sole judge of what is self-defense.

It also embraces the right to suppress any nation's activities and sovereign rights, to prevent it from becoming dangerous; for that is embraced in the League of Nations. That is to say, it embraces the right of the nations to preserve the old balance of power, or the balance of power, at least, as it was laid down in the Versailles treaty.

It preserves the right, in case of these wars, to fight with poison gases, to employ all the armaments that have been accumulated, to seize the commerce of neutrals, just as Great Britain has always seized it, and, finally, to match starvation against starvation. All these things are excepted.

If the above process of subtraction be carried out, the residue does not change a single existing condition. It does not even enlarge the protestations of devotion and peace, or the expressions of good will, for England, France, Russia, Germany, Italy, all of the countries that have signed this pact, have solemnly said that war is not an instrument of their national policy, they never had any such diabolical thought as that; they were concerned always and only in wars of self-defense. It has been admitted upon the floor, and it is true, that there has not been a war made in a hundred years where the nation making the war has not alleged it to be in self-defense, and we concede that each nation is to be the judge, in its own case, as to what is self-defense.

More than that, all of these nations have already made treaties of good will and perpetual amity. They have been solemnly written and repeated time after time and time after time. They are filed away in the chancelleries of the earth. They are covered with the dust of ages. They have been brought out and dusted off and refiled period after period, and all of the parties to those treaties have sworn eternal friendship to each other, and all of them have sworn that they will not make war upon each other.

The aggregate of those treaties is the sum total of this treaty. The simple difference is that they are probably of more binding force, for two reasons: One is they were carefully negotiated between nations and took into consideration the peculiar conditions of those nations. The other is that many of them have attached to them already means by which difficulties can be ironed out and amicable adjustments arrived at.

What you are doing here is writing a treaty of words, and you have extracted from the words all the meaning of the English language. You are putting that out now as a sovereign remedy for war; you are not doing one single practical thing to remove the causes of it. But as to that, a little later on in my address.

There is one thing we may say that, having many times and in multitudinous pacts, treaties, and understandings agreed to keep the peace and remain perpetually in amity, we gain nothing by repeating the oft-repeated terms of the pact. There is one inference which might be drawn, and that is that we entertain doubt as to the good faith of the previous pacts, and hence we are going to make another one just like them.

Mr. President, viewed in that light it is no wonder that the distinguished Senator from Virginia [Mr. SWANSON] has described this as a mere gesture; that the distinguished Senator in charge of the measure, my good friend the Senator from Idaho [Mr. BORAH], for whom I entertain the highest regard in every way, as he knows and as everybody knows, practically concedes that there is not much left of this treaty except an expression of good will.

We are told that there is a particular kernel of virtue in this pact, in that the nations renounce war as an instrument of national policy. You could not get a prime minister of any country on this earth to admit that within the last two centuries war had ever been an instrument of his nation's policy. They would all say, "We fight only in defense of our rights. We do it with tear-filled eyes, we do it with aching hearts, we stand to defend ourselves, exercising the God-given right of self-protection, and that is all we have ever done." Then, when Germany begins a war with France, England says, "Our self-defense is involved." Why? "Because if Germany gets too strong, then we will be in danger." So they construe self-defense, and so they say that they have never had war as an instrument of national policy, as was the case in the days of Alexander, and Cambyses, and Julius Cæsar, and some other great conquerors; but no nation has admitted any such impeachment during the last 200 years. So you have a phrase there that means nothing—"as an instrument of national policy."

If it meant that you would not make a law in self-defense, then you would include in your terms something that was not there before. But when you take self-defense out and say that every nation is to be the judge of what constitutes self-defense—and every nation says it always fights in self-defense—what becomes of your phrase "an instrument of national policy"? It vanishes into thin air, just as this treaty will vanish at the first puff of powder, at the first shot of the first gun.

Now, let us go back and see whether my analysis of the treaty is not correct. This is known as a treaty to outlaw war, to make all kinds of war illegal and criminal. That is its language. I think I know where it originated. There is a gentleman in Chicago named Samuel O. Levinson. He is a friend of mine. He is a good man. He is a fine lawyer. He conceived the idea that a law ought to be passed making it a crime for any nation to go to war; that we would outlaw war just as we outlawed dueling where there is a law of superior force which can punish the duelist. He worked out a plan for amending the laws of nations so that they would declare a warring nation to be an outlaw. Then he was finally brought up against the proposition that a treaty to outlaw war would not amount to very much unless there was a constabulary to enforce the decree of law. Nevertheless, he submitted his proposition. He took it over to France. He states unhesitatingly that he spent $200,000 in trying to promote the idea of outlawing war. Later, when M. Briand and our Secretary of State submitted a similar proposition to the sovereign nations of the earth, they said, "We can not waive the right of self-defense," and they began to construe that. "We can not waive the Locarno pacts," and they began to insert that. "We can not waive the League of Nations covenant," and they began to insert that. "We can not waive the multilateral treaties," and they began to insert them. When they got through with their subtraction there was not anything left to subtract from.

Then it is brought here and the distinguished Senator from Virginia [Mr. SWANSON], whom I admire, said, "It is a pleasant gesture. Let us make it." I wanted to discuss that with him, but I saw at once that the dove of peace had not sung its notes with sufficient sweetness so that they had penetrated his heart, and as I had no desire to involve either of us in a controversy, my questions subsided.

Mr. President, the gentlemen who say it is a gesture, a good-natured gesture, a kiss thrown from the tips of the fingers to amorous and waiting nations who will accept the kiss and hold themselves to no responsibility have another theory, and that is that everybody will be compelled to obey the spirit of the treaty and never make war by what they call the "general opinion of mankind." More people have been fooled by phrases than have ever been convinced by logic. We are going to have this treaty enforced by "the general opinion of mankind." One would think that mankind could be gotten into a room, that they were all like we are, that they had a consciousness with regard to war that we may possess, that we could arouse that consciousness, and that there would be no conflicting interests, that we could simply resolve ourselves into a sort of church meeting where brotherly love prevailed and where everything was sweet and serene and nice.

The general opinion of mankind! What is "the general opinion of mankind"? What is meant by the general opinion of mankind? We can not get the peoples of the world to believe in the same God, to worship at the same shrine, to adopt the same philosophy, to live according to the same code of ethics, to treat each other in the same way. What is the general opinion of mankind as applied to this treaty? Let us have a little plain horse sense. They have it on the other side of the waters. We are the only body of dreamers there is. We are the only nation in the world that ever composed such songs as I Did Not Raise My Boy to be a Soldier. [Laughter.]

We are the only Nation on earth where it has ever been advocated in a great legislative body that we ought to teach our boys as they grow up that they never should fight. All other nations teach their boys that it is their duty to lay their lives on their country's altar when their country needs them. Other nations do not teach internationalism. They teach nationalism, and if we fail to teach it, if anything can undermine the courage of American youth, it will be that sort of nefarious doctrine.

"The general opinion of mankind!" If treaties could make public opinion promotive of peace and barring war, if that could be done by treaties it would have been done centuries ago. But the armies of earth have marched across the realms of time over highways carpeted by treaties of amity. Treaties do not create the will for peace. Treaties to possess force must be expressive of a will already formed, already thrilling the hearts of the nations. If that condition existed, then the treaty would be expressive of it and would be obeyed—indeed, a treaty would scarcely be necessary.

If the hearts of mankind could be changed, if differences could be reconciled, if all selfishness could be eliminated, then we would have a public opinion amongst all the nations for peace, because all the peoples, all the races, kindreds, and tongues would be devoted to peace. We would be like the Chinese nation that denied war and, denying war, died for lack of preparedness.

But what is the public opinion as it exists to-day? I appeal to the common sense of men. The public opinion of 320,000,000 people in India is that the thraldom of 40,000,000 Britishers should be broken. The public opinion of 400,000,000 in China is that the knife of Japan should be removed from her throat; that Britain is an invader of her soil and her rights; that the 40,000,000 of French have already invaded her rights; and that until recently we were to some extent involved in this invasion of national sovereignty.

The public opinion of 63,000,000 Germans, 7,000,000 Austrians, and 8,000,000 Hungarians is that the foot of the oppressor is upon their soil and that they have the right to regain complete sovereignty. The public opinion of 150,000,000 Russians is that governments of other nations are upon an unsound basis and that Russia has great national rights of which she has been despoiled. The public opinion of 14,000,000 Egyptians is that England's iron hand is at their throat and that that stranglehold must be some day broken. The public opinion of Poland is that she ought to have the privilege of cutting large slices out of the body of Russia and of enlarging her claims in Germany. The public opinion of Persia is, as broadly hinted in her note of adherence, that England is trespassing upon her national rights—and she is. The public opinion of Algeria is that she has been shorn of her sovereignty, and she protests against the conditions or reservations which imply that that process of oppression shall be continued.

The public opinion of these nations is probably that they would like to live in perpetual peace if they could enjoy what they conceive to be their full natural rights; but it is also that those rights are sacred and that they must defend them where possessed and regain them where lost. Until they are made contented with their lot there will be no concert of public opinion in favor of maintaining a status quo. We might as well ask a man to be content who wears a dagger in his breast, festering in the wound.

"The public opinion of the world under these circumstances will compel obedience." It will compel obedience by Great Britain as long as Great Britain gets what she thinks she is entitled to, and her philosophy is that she is entitled to rule the seven seas and that she is entitled to hold every foot of land over which the Union Jack flies and every inch of ground where she has established her protectorates or her interfering agencies.

The public opinion of Germany will be content when she thinks her wrongs have been righted, and she will then be for a perpetual peace. The public opinion of France will be content when she feels that her destiny has been fulfilled and not until then. The public opinion of Russia will be content when Russia reaches the Dardanelles and has full access to the oceans of the world, and not until then.

All these are the opinions of different nations and they are at variance and when, therefore, it is said that every nation shall decide the question of when it ought to act and how it ought to act in its defense, and that its defense embraces anything that it may see fit to do, that is in good faith intended to defend its interests—when we go further than that and concede these additional rights over conquered territory, when we have done that, then there is no such thing as a public opinion that will compel those nations to relinquish those rights which we have

expressly reserved to them, and which they have reserved to themselves or which every advocate of this treaty says they possess. So let us not make any mistake. The public opinion of the world has always held, at least within the last century, that when a nation simply went out and conquered other countries it was doing an unjust thing. There are in the hearts of many people in this country opinions of that kind that are very strong and firm. There are people in every great nation of similar notion; and there are people all over the civilized world of that kind, but they do not represent a public opinion that will coerce the nations of the earth into surrendering anything they believe to be their rights; and as there is conflict always as to which is right, a conflict will arise, and public opinion of this kind will not stop it.

I still think the public opinion of the world was against Germany in the late World War; it certainly came to be against Germany toward the end; but that did not hinder Germany from fighting when she believed her vital interests were concerned; that did not hinder Great Britain from joining with France in order to preserve the balance of power in Europe; that did not hinder Russia from advancing her armies to the battle front when she believed that Russia's interests were imperiled. So we reduce this matter to the plain proposition that if this treaty means nothing; except that which its advocates say, just as the Senator from Virginia [Mr. SWANSON] said the other day, it would be a mere gesture, meaningless, except as an act of courtesy or friendship. That is not the Senator's language, but that is a rough interpretation of it.

Mr. President, I think that if the treaty is a mere gesture, it is very unfortunate that it is being made; first, because a false remedy always postpones a real remedy. If a patient is sick, if he needs calomel and a doctor gives him dough pellets, he endangers the life of the patient, he prolongs the disease, and he prevents the application of a proper remedy. That is a thousandfold more important in international negotiations. So, if this treaty is only a gesture, it is a foolish thing. It is a foolish thing to call the chancelleries of the earth together and solemnly agree to do nothing; to say once more what we have said in scores and scores of instances; to say once more what is already solemnly registered in the archives of every nation. If that is all, then it would be better not to have been done. If that is all, I put it upon your conscience and upon your sense of fairness, if there is no obligation, express or implied, in this treaty save that we shall not make wars of aggression, then why not write in some formal manner our construction to that effect, so that in the future we can not be accused of bad faith? Why not say on paper what we are willing to say with our mouths?

My experience has been in the practice of law and in life that when a man says to you, "This contract I make, but I will not put it in writing," he does not intend to carry out his contract. If this treaty means what Senators say, then have enough regard for those of us who fear the construction to put something in the treaty which you say is there, but put it in in plain terms. How can any man in fairness deny that? What reason is there for denying it? We have not asked to have put into the treaty anything that would compel it to go back to the other chancelleries; but, if we did that, who could properly object?

Senators say if it goes back the other signatories will begin to add conditions of their own. Then they must have those conditions in their minds. If they have those conditions in their minds, it would be better they put them on paper now, so that we may understand what is being done. If they have those conditions in their minds, and will attach them if we say plainly what we mean, as a matter of fairness we ought to invite them to attach them.

But what, sir, will we gain? If this were a contract to be made by two individuals, and if we could seduce the individual into signing the contract as written, we might take him into a court of justice and say to him, "You did not write it in the bond; you did not nominate it in the instrument; and hence under the rules of law we will make you live up to the instrument"; but there is no such court, there is no such obligation here; the matter rests upon good faith. If it rests upon good faith, and good faith alone, then no nation can be held to stand by it that puts a different construction on it in its heart than somebody else puts on it. If they have reservations in their minds now, in the name of high heaven, let us know what they have in their minds before we put our pen to paper, for in the end they will decide—not a court, not a tribunal, but they alone—and that is admitted everywhere.

I would be ashamed if I represented a private client to hide from him the implications of a contract or to refuse to allow him before the contract had become effective to write into it that which he understood to be its meaning. How much more would I be ashamed in the great tribunal of conscience that may exist somewhere but does not embrace the world, to stand there convicted of having purposely kept back the thought of my own heart and my own construction of this treaty lest they should write theirs into it.

We talk about a treaty resting upon good faith and at the same time we talk about it resting on good faith we are guilty of an act of bad faith; we taint it from the start. We get them to sign in some way, and then we will hold them, but we can not hold them; there is no court to hold them; there is no judge to say, "No matter what you had in your mind, you did not put it in this document," as has been so often and recently unjustly said in cases of contracts—a harsh rule of law that we have to maintain because its evils are not as great as would spring from its abandonment. Why not put these conditions in?

Well, Mr. President, we do not mention our Monroe doctrine. We left it out on purpose; we held that back; if I may use a colloquialism, that was our "ace in the hole." There have been some views expressed here to which I wish to refer. One of them is that the Monroe doctrine is reserved to us because Sir Austen Chamberlain stated that the United States in certain regions had similar interests upon which she would insist. I take it that there can be no dispute among Senators who have thought of this question that when a nation signs a treaty and attaches an express condition that condition runs with the pact. Whether as a strict matter of law it does or not is immaterial here, because there is no court to decide it. The nation decides it for itself, and it is an eternal verity that it will decide that question in favor of its reservation. So Great Britain by attaching her reservation can say to all the world in the future, "We expressly told you that we reserved full liberty of action in these unspecified regions, and this is one of them"; and, there being no court to construe it, England's construction must stand, or else we must go to war or encounter difficulty about it.

Let me say, further, that when England mentioned the fact that we have a Monroe doctrine, not calling it by name but referring to it, I think it can be fairly said that Great Britain by that act recognized our Monroe doctrine, and would be estopped from hereafter declining to recognize it in any manner concerning the interpretation of this treaty; but while England made that concession she made that concession or admission for herself. It does not inure to the other nations. It does not bind the other nations. England said, "You have a Monroe doctrine." That is an admission by England that we do have such a doctrine, but it is not an admission by Germany that we have a Monroe doctrine. It is not an admission by Russia that we have a Monroe doctrine. It is not an admission by France that we have a Monroe doctrine. I mean, when I say we have a Monroe doctrine, that we have a Monroe doctrine that ought to be respected. Indeed, several of these nations, in signing this pact, expressly said they refused to accept any conditions attached by any nation; that they signed the pact upon its face, and without any qualification. So that the Monroe doctrine is not reserved there, except we can say to Great Britain, "You tacitly admitted it," and we can say that to Great Britain alone.

England can say to us when we accept this pact that by ratifying this agreement after she specified an oriental Monroe doctrine, if she proposes to confine it to the Orient—God knows whether she does or not—we have assented to that doctrine. We take her into a general pact of peace, and we grant to her the right to except from the terms of that instrument her dominions as claimed by her in all these quarters of the globe. If England hereafter should exercise her rights in those dominions, we could not resist her without violating the terms of this instrument. We admit the validity of her claim. If we do not want to admit the validity of her claim we ought not to sign this agreement for general world peace, general abandonment of war, and then concede to her the right to take out of the agreement these special territories upon the claim that as of right she is the dominant force there.

In my judgment, there is no escape from that reasoning. I can see no escape from it. I have been in the Senate long enough to know that there is no reasoning from which somebody can not escape; but, then, that is equally true of foreign chancelleries. Moreover, I have also found that there are men who can not be convinced, and perhaps I am one of the worst offenders in that respect; but I am hoping here that we are not going to make any mistake. My opinion is that this thing as now formed is a Trojan horse, because they put inside of it the doctrine of the balance of power in Europe, with the right to make war to maintain the balance of power, and with our assent to such a war by accepting the treaty with that condition in it, because they put in it the right of every nation signing it to be controlled by the obligations of the Locarne pact and the obligations of the League of Nations; and when we

sign this treaty with those exceptions we tacitly agree that anything that is done in good faith in accordance with the procedure there laid down we will not regard as a hostile act or as a breach of the treaty as to us.

Let us see, then, where that leads us.

Let us assume that Germany and Austria hereafter see fit to form themselves into one nation; that their right to do so is protested by France or some other country; that then it is claimed that that is a threat of war; that thereupon the matter is carried to the council of the league, and the council of the league decides that they have no right to form themselves into a single nation, and that it is a hostile act and a breach of treaty; but we, on our side, believe that they have a right, in working out their salvation as a people, to do that very thing. We believe that the use of any armed force against them or the taking of any measures against them is unholy and unjust.

The league then proceed to apply sanctions, as they call them—"sanctions" being the polite name for war in some of its forms—and they declare an embargo of all the ports of Germany. After having admitted that they have the right to proceed in the manner and form laid down in the treaty of Versailles, can we then, without breaking this treaty and without being an aggressor, do anything to aid Germany, which has been solemnly, although in our opinion unjustly, adjudged to be the aggressor?

I do not know what answer will be made to that. It may be said that each nation is its own judge; but if you say that each nation is its own judge, and is not bound in any way by the language of the treaty, then you would better not write the treaty, for the treaty means nothing.

Again, suppose that Germany should say some day, "The French soldiers have no longer any right upon our soil. We have performed the conditions of our surrender"; and suppose the French should say, "We have the right to stay here," and the Germans should say, "You are, therefore, an invader of our soil, and we have the right to put you out." Thereupon the Council of the League of Nations decides that Germany is about to make war, or has actually resorted to violence to get the French soldiers out. We, however, think Germany was right. We think France was wrong. Germany says, "You tried us before a packed court"; and it is a packed court. It is a packed court because the interests of every nation run into it, and any court where interest interferes is a court that is packed. Again we venture to send our goods to Germany, with which we have been at peace; and these other nations seize our goods, and say to us when they seize our goods, "*You agreed* that the League of Nations pact should stand as between these nations, and it is standing, and they are acting under it. Having consented to the validity of the League of Nations, and to these nations that joined with you belonging to it, how, then, can you protest against or do anything in contravention of a decision rendered by that league?"

So, without following it further, or wearying your ears and patience by further illustrations, what I have said here may be extended to the Locarno pact, which is a pact of war, a pact in which nations are bound to fight who are not fighting in their defense at all. One of them may be fighting in its defense, but the others are bound to come in. It is an offensive alliance in that respect, and they are bound to come and fight, although their territory is not invaded and although their rights are not imperiled.

But let us bring it a little closer home. Let us see if the propagandists of this country and the pacifists of this country who have been flooding the Senate are stronger than all appeals to reason.

We except from the terms of this treaty, I repeat, the League of Nations pact. We consent that all nations belonging to the League of Nations by signing this treaty have done nothing to impair the league compact. We thus by implication, if I know the meaning of language or any single rule of logic, consent that these nations shall freely act under the terms of the League of Nations pact. I am not urguing here against the League of Nations; but we are not a member of it and we have nothing to say about it.

Now, let me assume that Japan comes over to South America or Mexico and gains by peaceful negotiation the right to establish a naval base and to build a fortress, and we protest. Why has not Japan the right to say, "This is one of the questions necessarily falling within the jurisdiction of the League of Nations, and we will take their decision." The league meets and decides that Japan is right; that as a sovereign nation she had the right to make a contract with another sovereign nation for the cession of territory. But we say, "We are not members of the league." "Ah, but," Japan says, and Mexico says, "we were members of the league and we had a contract providing for the way to settle our disputes and differences, and following that and in accordance with that we have reached this decision."

It will be said that there is a fault in that argument; that we are not parties to the league, and hence we can say we are not bound.

I am not here to argue that as a strict measure of law we would necessarily be bound, but I am here to say that by implication we have at least said to these nations, "Whatsoever your obligations are under the league, you are at liberty to carry them out."

Let us take another illustration. Two South American countries get into a controversy. They both belong to the league. They submit their controversy, or the league takes jurisdiction and proposes to decide that controversy. When it decides it, it decides it in such a way as to be clearly inimical to our interests. It may involve relations with European governments, or protectorates by European governments, or something offensive to us. We say, "We protest against that"; but they reply, "What right have you to protest? You agreed that this League of Nations covenant should stand unimpaired by this peace agreement. By doing that you recognized the rights of these nations to conform to and act in accordance with the League of Nations' proceeding. They have done it."

At least there is the gravest danger that we may involve ourselves in a charge of bad faith. At least there is the gravest danger that foreign nations will regard our action here as having opened the door to decisions touching acts upon this continent which we believe would be violative of the Monroe doctrine, unless we say, "We reserve the Monroe doctrine," or words to that effect.

Mr. President, I have talked as long as I want to talk to-day, and while I have not covered this question at all, I may have scratched the surface a little with as dull a plow as I possess, but at a later time during the debate I intend to bring forward a resolution, not to be adopted here in connection with this treaty but elsewhere, covering what I believe would do some good in the matter of limiting war.

For 500 years England has asserted the doctrine that she has the right, practically, to dominate the seas, and to place embargoes upon the commerce of every nation whenever she is at war. That right she asserted in the late World War, and it was the secondary reason which produced the immediate reason for our entrance into that war.

England asserts that when she is in a fight, the rights of the innocent bystander cease; that when she is in a fight with a country, she has the right to seize the goods of every country that is at peace with her enemy, and that dares to carry anything to the enemy. She asserts the right to wipe that trade out, to seize the ships.

The controversy has been a long one, and I intend to review it. While she has been driven from it time and again, and has been compelled to qualify it time and again, she returned to it in the last war in the most aggravated form, for formerly the right of seizure and search had been limited to contraband of war, and contraband of war had been limited practically to munitions of war and to soldiers. But in the last war, by her order in council, Great Britain declared substantially everything that men wear and that men eat and that men employ, either in the arts of peace or in war, to be contraband of war.

She seized our ships, she embargoed the North Sea, she planted her mines, and told us the lanes through which we could travel, and told us that when we went outside we would be blown to pieces. She seized our cargoes destined for neutral ports and demanded that the owners prove that they were not going into Germany for transshipment. So, having undertaken to apply starvation to Germany in this way, by interference with our commerce and the commerce of all other neutrals, she compelled Germany to adopt similar measures, and it was because of the adoption of those measures that we finally were compelled to enter the war.

I want to see something done of a practical character. I want to see an agreement forced among the nations of the earth so that when two nations fight they shall fight each other and nobody else, and that they can not seize the goods of a friendly nation. If that were done, wars could be confined; they would not spread all over the world.

Is that chimerical? Perhaps so; but Benjamin Franklin and Thomas Jefferson and John Adams did not think so, and Henry Clay did not think so, when they negotiated with Prussia the treaties for freedom of commerce, those treaties providing expressly that in case Prussia were at war with any country the goods of the United States should go unmolested into ports of Prussia's enemy, and that if we were at war a similar privilege was to be accorded to us. That would limit war, and if such a treaty as that were universally accepted, then when two

nations went to war they would be fighting each other and not injuring the innocent.

Article 12 of the treaty of 1789 provided:

If one of the contracting parties should be engaged in war with any other power, the free intercourse and commerce of the subjects or citizens of the party remaining neuter with the belligerent powers shall not be interrupted. On the contrary, in that case, as in full peace, the vessels of the neutral party may navigate freely to and from the ports and on the coasts of the belligerent parties, free vessels making free goods, in so much that all things shall be adjudged free which shall be on board any vessel belonging to the neutral party, although such things belong to an enemy of the other; and the same freedom shall be extended to persons who shall be on board a free vessel, although they should be enemies to the other party, unless they be soldiers in actual service of such enemy.

Mr. President, if we had had a treaty like that when the last war came on, and if every nation in the world had had similar treaties, then when Great Britain first began seizing the ships and goods of a neutral, she would have violated her pact with that particular nation directly, but it would have been notice to all the other nations that similar treatment would await them. Hence there would have been a natural combination of nations against her which she would have recognized, and we would never have had a vessel seized or sunk by either of the belligerents. If that had been true, then 125,000 American boys who lost their lives in France would still be walking the earth, and the vast debt that is piled upon us would not be here to burden us and those who are to come after us.

Mr. President, what argument can be made against that? The argument of brute force, the argument that England has made because she commands the seas, and has been powerful enough to force her will upon nations. Once in history Catherine of Russia called together the neutral nations and imposed an armed neutrality, and thus protected the commerce of the world.

What is Britain's argument for this employment of brute force? It is that she wants to starve her enemies into submission. Humanitarians there are who sit around in all parts of this country and say that war is a terrible thing. Let us do something to keep it within limits, and without bounds. That is practical.

They tell us that we should not have poison gas, that that is a terrible thing. Poison gas is used against the soldiers upon the field, who have some means of defense, while starvation strikes the women and children at home.

They tell us that humanity demands we should not bombard unfortified cities, because the lives of women and children and peaceful citizens would be imperiled, and that is true; but is it any worse to kill them with shot and shell than by the slow process of starvation?

When we speak of humanity, we would better stop and think of something that will limit war. I say, sir, that I would like to see the nations stand before this imaginary tribunal of the world we talk so much about here and defend the right of starving women and children to death. That has been England's method of warfare.

Close the ports, and where the bullets can not reach, gaunt starvation will place its skeleton hands. Close the ports, and the stout hearts upon the battle fields that are not dismayed by the sound of shot and of shell will break when they know that their loved ones at home are famishing for food. That is the kind of doctrine that has been taught by Great Britain.

Let me say, in conclusion, I have said many things about Great Britain, but I am no enemy of Great Britain or of the British people. I have spoken of her at length because she has spread herself all over the world. All over the map of God's footstool she has placed her marks. Everywhere, in every quarter of the globe, her flag floats, and when she proposes certain policies that have made for war, that still make for her dominance, that will result in fixing her iron grip upon the throats of conquered peoples, and ask us to agree that she has the right to do that, and that nobody has the right to resist because they are resisting their natural, righteous, and conceded right—when she does that, and when she imposes her will upon the seas, it is time to do a little talking.

That is a great nation, a great people, and because she is a great nation and a great people, because her sons possess the iron of courage in every fiber of their being, because they know how to cling to an idea and fight for it and die for it; because her ships sail all the waters of all the oceans; because her guns frown upon every lane of the sea, so that every craft must pass beneath their muzzles; because she has us surrounded, in a large sense, I say that it is time to do a little thinking.

But, indeed, like miserable, sentimental idiots we have sunk $500,000,000 worth of the finest fighting craft on earth, and we did it to the peans of the pacifists and mollycoddles of the Nation, we did it to the delectation of certain statesmen who thought they were going to get some votes from those propagandists. We did it, and when we did it, as soon as the ink was dry, Great Britain began to sing hosannas, France rubbed her hands in congratulations, and they both said, "Now the dominion of the seas can not pass from us or one of us or both of us. America, the great giant, has cut off her right arm, and we have reserved the right to build cruisers that will infest the waters of every ocean and can destroy the commerce of every nation, and so we will continue to build them. We will have peace. We are great friends of peace so long as that doctrine will destroy your ships. We are great friends of ourselves and our governments and of our imperialism when we want to build a swarm of smaller vessels that can destroy all the commerce of the world."

It is time to wake up a little bit here. That nation is safe, that nation can pursue a policy of peace which is strong enough to command peace; and, being strong enough to command peace, it may then pursue policies of peace that make for the welfare of mankind. We have furnished that example. America's example to the world has done more to form opinion in other nations favorable to peaceful means than can be done by all the treaties that have ever been written.

Ah, but America will lose her strength; America's arm will drop palsied; America's influence will shrink whenever America becomes a weakling no longer able to maintain herself. Then they will say, "The weakling begs for quarter." Now they say, "The strong man extends the hand of friendship." But it is not to be accomplished unless we safeguard our interests now; and I make the appeal to the Senate to insist that there shall go into this instrument or into a report of the committee or in some way into an authoritative statement the construction of the treaty which has been put upon it by the chairman of the committee and put upon it by its advocates. If we do less than that we are derelict in our duty to the people who sent us here. If we yield to these propagandists who come down here talking about peace and that there shall be no war instead of talking about our country being safe first and then pursuing the policies of peace, if we surrender nationalism to internationalism, if we accept the doctrine of the Third Internationale, which has been denounced as anarchism, then we shall sow the seed that will raise a crop that will choke out the spirit of patriotism, and this Nation will suffer by our act.

We are the watchmen upon the tower. The solitary watchman is not down in the office of the Secretary of State. He is not the only man charged with the duty. He was once a Member of this body. We respected him, but no man surrendered his judgment to him. Now, for his private opinion, that we may anoint him with the oil of our obsequious approval, we are asked to say nothing, to do nothing, to just accept the treaty, although it is admitted that all the speeches we may make here in the way of construction will not affect the final construction of the treaty, but that a few words plainly spoken would remove all danger from it. Why not write them?

Mr. President, I thank the Senators for their attention.

Mr. BORAH. Mr. President, I want to submit a request for a unanimous-consent agreement to the effect that beginning tomorrow at 3 o'clock each Senator shall be limited to 30 minutes in the discussion of the treaty or any reservation or amendment offered to it.

The PRESIDING OFFICER (Mr. FESS in the chair). Is there objection to the unanimous-consent request?

Mr. BROOKHART. Mr. President, I think we should have a quorum before such an agreement is entered into. I therefore suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

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

Ashurst	Edge	Keyes	Ransdell
Barkley	Fess	King	Reed, Mo.
Bingham	Fletcher	La Follette	Reed, Pa.
Black	Frazier	McKellar	Robinson, Ark.
Blaine	George	McLean	Robinson, Ind.
Blease	Gerry	McMaster	Sackett
Borah	Glass	McNary	Schall
Bratton	Glenn	Mayfield	Sheppard
Brookhart	Goff	Metcalf	Shipstead
Broussard	Greene	Moses	Shortridge
Bruce	Harris	Neely	Simmons
Burton	Harrison	Norbeck	Smoot
Capper	Hastings	Norris	Steck
Caraway	Hawes	Nye	Steiwer
Copeland	Hayden	Oddie	Stephens
Couzens	Heflin	Overman	Swanson
Curtis	Johnson	Phipps	Thomas, Idaho
Deneen	Jones	Pine	Thomas, Okla.
Dill	Kendrick	Pittman	Trammell

Tydings	Wagner	Warren	Watson
Tyson	Walsh, Mass.	Waterman	Wheeler
Vandenberg			

Mr. GERRY. I desire to announce that the senior Senator from South Carolina [Mr. SMITH] is detained from the Senate by reason of illness in his family.

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

Mr. BORAH. Mr. President, I am going to submit a request for unanimous consent for the purpose of limiting debate. I ask unanimous consent that, beginning to-morrow at 3 o'clock, speeches or discussion on the treaty and all amendments or reservations thereto on the part of each Senator be limited to 30 minutes.

Mr. ROBINSON of Arkansas. Mr. President, does the Senator from Idaho mean that each Senator may speak 30 minutes on the treaty and 30 minutes on any reservation?

Mr. BORAH. No; 30 minutes in all. Each Senator may divide the time to suit himself, but would be limited to 30 minutes on the treaty and reservations.

Mr. MOSES. I should like to ask the Senator if it is not possible to submit a unanimous-consent agreement fixing a time when we shall vote on the treaty?

Mr. BORAH. No; it is not possible unless the Senator from Missouri has changed his mind.

Mr. MOSES. The Senator from Missouri is not in the Chamber. I do not know what his position would be as to the request which the Senator from Idaho now submits.

Mr. BORAH. I talked with the Senator from Missouri about that proposition.

Mr. McLEAN. Is the Senator from Idaho willing that it shall be understood that there shall be no vote to-morrow?

Mr. BORAH. No; not if we get to a vote. I would want a vote to-morrow if we should get through with the debate.

Mr. JOHNSON. If the Senator will permit me, the suggestion I am about to make is solely because of the usual course of events. To-morrow will be Saturday, and if the Senator's request shall be agreed to we shall begin to limit debate at 3 o'clock on Saturday afternoon.

Mr. BORAH. Yes.

Mr. JOHNSON. Ordinarily we would not be in session very late on Saturday. Why not make it 12 o'clock on Monday?

Mr. BORAH. Very well, if the Senate prefers that.

Mr. JOHNSON. It is a mere suggestion which I make, because of to-morrow being the end of the week.

Mr. BORAH. I thought we might get through with the debate to-morrow, perhaps, and then have Monday to begin other matters, but if there is objection to my first request I will resubmit the proposition.

Mr. WATSON. Mr. President, can the Senator from Idaho state how many Senators would like to be heard on the treaty?

Mr. BORAH. No; I am unable to do so. There are, however, several Senators who desire yet to be heard, but they are not going to speak long. I am making this request largely because Senators want to get some idea about when we are going to vote on the treaty, as some of them have other matters that call them away.

Mr. McLEAN. That was my idea in suggesting that it be understood that there would be no vote to-morrow, because even though we should begin to limit debate at 12 o'clock on Monday we might still finish the discussion and reach a vote to-morrow. I think it should be understood that there should be no vote to-morrow. Otherwise it would be rather embarrassing for a good many Senators.

Mr. BORAH. I do not want any understanding that we shall not have a vote when we get through with the debate. When we get through with the debate on the treaty I want a vote.

Mr. MOSES. Mr. President, I will ask the Senator from Idaho did the Senator from Missouri [Mr. REED] indicate why he would object to fixing a time for a vote if he was willing that debate should be limited?

Mr. BORAH. The Senator from Missouri said he did not want a time certain fixed to vote, and I told him that I would not make that request. I am not speaking for the Senator from Missouri on the question of limiting debate, but he said he did not want a time certain fixed for a vote, and therefore I am not asking for that.

Mr. MOSES. For the time being, Mr. President, and until I can consult with the Senator from Missouri, I feel constrained to object to the unanimous-consent agreement proposed by the Senator from Idaho. I should like to talk to the Senator from Missouri this afternoon, and possibly the Senator from Idaho may then subsequently renew his request.

Mr. BORAH. Objection having been made, that ends the matter for the present, I suppose.

Mr. WALSH of Massachusetts. Mr. President, I send to the desk a letter from Jeremiah Smith, jr., a leading attorney of Boston, Mass., and request that the letter be read for the information of the Senate.

Mr. Smith's views are of public interest and importance because of his extraordinary public service and intimate knowledge of European questions, since he was attached, after his services in the American Expeditionary Forces, to the American mission to negotiate peace, as council to the Treasury Department and adviser on financial questions.

When the council of the League of Nations in 1923 sought a commissioner general providing for control of a draft scheme for an international reconstruction loan to stabilize the currency of Hungary and balance its budget, Mr. Smith was selected.

He served in this capacity from May 1, 1924, until June 29, 1926, when the need for his services terminated owing to the decision of the League of Nations to relinquish its control of the financial reconstruction of Hungary. Mr. Smith was entitled to compensation for his services, but at the termination of his functions he presented his entire salary for his two years of work in the amount of $100,000 to the Hungarian people, stating that the friendship and appreciation of the Hungarian people were all that he desired. His administration was pronounced eminently successful both by the league and by the Hungarian Government, and he was publicly offered the thanks of the Hungarian people, and probably no American is more affectionately regarded by them.

I particularly call attention, in view of Mr. Smith's well-recognized conservatism of thought and speech and his intimate knowledge of European affairs, to one sentence in his letter which is the one which indicates that, in his opinion, it is only a question of time until there will be another general war if foreign affairs are conducted in other parts of the world in the future as they have been in the past.

The letter is brief, and I ask that the clerk read it.

The VICE PRESIDENT. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

HERRICK, SMITH, DONALD & FARLEY,
Boston, January 9, 1929.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

MY DEAR SENATOR WALSH: * * * I am writing to tell you that I hope very earnestly that you will vote in favor of the Kellogg-Briand peace treaty, as I expect you probably will.

I am neither a pacifist nor an internationalist, but I think the preservation of peace is one of the most important questions in the world to-day, and everything that promotes it is valuable.

During the last 12 years I have had some opportunity to observe how foreign affairs are conducted in other parts of the world. I am convinced that if they are conducted in the future as they have been in the past, it is only a question of time until there will be another general war, though I do not think the people in the different countries are anxious for it. After very careful thought I am convinced that there has never been any international standard of morality in international dealings, and that the only remedy for this situation is to be found in the creation of international public opinion which will insist on the same standards of morality being observed in international dealings as are observed between individuals of good character in conducting their own personal affairs. Creating such an international public opinion is a very difficult piece of work, but I think it is progressing steadily though slowly. I consider this new treaty one more step in building up an international public opinion of the right sort, and I think it will be very valuable to that end. I realize that it contains no penalties, but I do not agree with the technical criticisms that it is of no value because it does not contain binding obligations to enforce it against anybody else. I think it is a most valuable step forward and may become a very important instrument in maintaining peace. I sincerely hope you will vote for it, and I think it would be very unfortunate if the Senate undertook to modify this treaty, which was initiated by this country. I think it is quite plain that other countries must understand our position and could make no claim of bad faith against us if we insisted on maintaining the position which they have already been informed is that of our State Department.

I may add that this letter is entirely voluntary on my part. I know that you must have received a great many communications on this question, so please do not take the trouble to acknowledge the receipt of this.

Sincerely yours, JEREMIAH SMITH, Jr.

SPURIOUS DOCUMENTS AFFECTING SENATORS

Mr. BROOKHART obtained the floor.

Mr. REED of Pennsylvania. Mr. President, will the Senator from Iowa yield to me?

Mr. BROOKHART. I yield.

Mr. REED of Pennsylvania. As in legislative session, I send to the desk and ask to have read a telegram from Mr. Ivy Lee.

The VICE PRESIDENT. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

NEW YORK, N. Y., *January 10, 1929.*

Hon. DAVID REED,

United States Senate, Washington, D. C.:

One of the newspapers advises me that they have story to the effect that it was revealed to-day that the Senate was in possession of document stating that the Soviet Government had paid to me a certain sum of money for some undescribed expenses. The fact is that I have never received one penny of money from the Soviet Government, directly or indirectly. I should appreciate the privilege of appearing before your committee and making this statement under oath and should also be very happy to place at the disposal of your committee the books and files of my office. The whole suggestion is a complete fabrication and utterly without basis in fact.

IVY LEE.

Mr. REED of Pennsylvania. Mr. President, I call the attention of Senators to the fact that there has been laid on the desk of each Senator a transcript of the proceedings of the last hearing of the special committee investigating this matter, which includes facsimile reprints of the various documents that were submitted to the committee.

I also send to the desk and ask to have printed in the RECORD a letter from the Secretary of State to the Senator from Idaho [Mr. BORAH].

The VICE PRESIDENT. Without objection, the letter will be printed in the RECORD.

The letter referred to is as follows:

THE SECRETARY OF STATE,
Washington, January 11, 1929.

Hon. WILLIAM E. BORAH,

United States Senate, Washington, D. C.

DEAR SENATOR BORAH: I learned yesterday that Senator REED'S special investigating committee had been informed that there was in the State Department at one time a copy of what purported to be a receipt signed by you acknowledging the payment of a considerable sum of money by the Mexican Government and that Mr. Lane, chief of the division of Mexican affairs, had been called before the committee to testify on this point.

Until this information came to me yesterday I had had no intimation of any kind that anyone believed that such a document had ever been in the possession of the department, and I caused an investigation to be made at once. I find that no such document and nothing resembling such a document has ever been in the department, and I can not understand the basis for the report which reached the committee unless there has been some confusion between the above-mentioned "receipt" and the alleged copy of a ledger sheet from the Mexican Treasury Department's records, a facsimile of which was published in the Washington Herald of Friday, December 9, 1927. That document, you will recall, purported to show the payment of a large sum of money to three persons whose names were obliterated from the published facsimile. A typewritten sheet (with translation) similar to that reproduced in the Washington Herald came into the possession of the State Department and was destroyed as unworthy of acceptance by the department for incorporation in its official files.

In order to make certain that I covered the matter completely, I have not only made inquiry of Mr. Phenix but also have asked Mr. Olds this morning by telephone whether he recalled any paper purporting to be a receipt by you for money paid by the Mexican Government. Mr. Olds stated unequivocally that he knew of no such paper; the only paper of which he was aware that associated your name with payments by the Mexican Government was the alleged extract from the Mexican Government ledger referred to above, the original of which, as you know, was given to Senator REED'S special committee, together with the other so-called Hearst documents.

I hope that this letter disposes of the matter to your satisfaction and that there will be no further revival of the subject.

Very sincerely yours,

FRANK B. KELLOGG.

Mr. CARAWAY. Mr. President, before the Senator from Pennsylvania takes his seat, I should like to ask him a question.

Mr. REED of Pennsylvania. I will be glad to answer any questions.

Mr. CARAWAY. Reading yesterday's proceedings, I see that a man by the name of Baker was presumed to have the papers to which reference is now being made. Has he been examined by the committee?

Mr. REED of Pennsylvania. He has not been examined, because the papers with which he was connected contain, so far as we know, no reflection upon any Senator. I am given to understand since the hearing was finished that the papers with which Mr. Baker was concerned were about 600 in number. They were papers which had been sold, or delivered at least, to the Mexican Government by some person who pretended that they showed hostile intention on the part of this Government toward Mexico. About 200 of them were genuine papers stolen from the American Embassy in Mexico. They in themselves did not show any such hostile intention. There were about 200 or 300 fraudulent documents wholly spurious. All these were turned over to the Mexican Government, and that Government, in a spirit of intelligence and amity for which we can have nothing but praise, was quick to send to our own Government for examination. They did not send them through in a formal way, but I understand that Mr. Baker was at the time in Mexico City and that some Mexican official told him about these papers and said that they would be glad to have them examined by our State Department. They were actually brought to this country, I am told, by some Mexican messenger.

Mr. CARAWAY. The question propounded to Mr. Lane and his answer left an entirely different impression on my mind. I thought that these were the papers bearing upon the reputations of the Senators accused, and I inferred from Mr. Lane's reply that it was with difficulty that they got the papers away from Mr. Baker.

Mr. REED of Pennsylvania. No, Mr. President. So far as I can learn—and I have made diligent inquiry since the hearing—Baker's papers bore not at all on the reputation of any Senators.

Mr. CARAWAY. At least, then, Mr. Lane puts him in rather a bad attitude, because I remember the Senator from California asked him some questions, and the impression I gained both from the questions and the answers was that Baker had some documents and was likely to make an improper use of them, and that it was with great difficulty that they were gotten away from him. I think he is put in a very unfortunate attitude if he is entirely innocent of any wrongdoing.

Mr. REED of Pennsylvania. Yes.

Mr. CARAWAY. I think everybody, at least all those with whom I have talked derived the impression that Baker's connection with the papers was entirely improper and his attitude subject to the gravest criticism.

Mr. REED of Pennsylvania. I can see that that is a natural misunderstanding. On page 345 of the testimony, however, appears the question of Senator JOHNSON, which was:

Let me ask you about some other spurious documents, inasmuch as the inquiry has been opened up in that regard.

I do not think that any of our committee understood that the documents with which Mr. Baker was associated had anything to do with Senators.

Mr. CARAWAY. Did not the committee understand that he was trying to make an improper use of the documents that he had?

Mr. REED of Pennsylvania. No, Mr. President.

Mr. CARAWAY. And was unwilling to surrender them to the proper parties?

Mr. REED of Pennsylvania. No, Mr. President.

Mr. CARAWAY. Then, I think he ought to be given a chance to testify, because that was the impression I obtained from reading the testimony; and I have heard quite a number of people state that they had similar impressions.

Mr. REED of Pennsylvania. So far as I can discover, Mr. Baker's only connection with the papers was in his anxiety that they should be shown to our State Department; and if Mr. Lane's testimony gives any other impression, it was unfair to Mr. Baker.

Mr. CARAWAY. I have not the testimony before me now. I read it in the paper—I think this morning's paper.

Mr. REED of Pennsylvania. The Senator will find the testimony on his desk.

Mr. CARAWAY. I shall read it again, because the impression I have is that Mr. Lane at least left the impression that Baker had them; and I think he was asked the question if it did not take rather extraordinary means to get them from him.

Mr. REED of Pennsylvania. The question was (p. 346):

Senator JOHNSON. They obtained those documents from Mr. Baker in a rather drastic fashion.

Mr. LANE. Well, I think they obtained them in a roundabout way.

As a matter of fact, I now understand that they were delivered by the Mexican consulate to some representative of the Navy Department in New York; the Navy Department had nothing to do with them, but this representative happened to be convenient, and they were brought by him to Washington. In that sense it was a roundabout way.

Mr. CARAWAY. Well, let us take this: Mr. Lane says, speaking of Mr. Baker:

I do not know how they came into his hands. I know that Mr. Baker went to Mexico and arranged to have them come into his hands, but he denied having brought them into this country.

Senator JOHNSON. But he had them, did he not?

Mr. LANE. Yes, sir.

Senator JOHNSON. And it required a considerable effort on the part of the State Department to obtain them, did it not?

Mr. LANE. I was not here at the time, but I understand that was the case.

Mr. REED of Pennsylvania. Mr. President, in fairness to Mr. Baker, I think I ought to make a fuller statement about it.

Mr. CARAWAY. I think so, too.

Mr. REED of Pennsylvania. I had been hoping that I would not need to take up too much of the time of the Senate.

During the war Mr. Baker was a reserve officer in the Navy and, I think, had something to do with the Naval Intelligence Bureau. He happened to be in Mexico, and some friend—I think a Mexican Government official—told him about these papers having been shown to the Mexican Government and about their willingness to have them inspected by our State Department. Mr. Baker said he was not going to bring them to the United States, but suggested that the Mexican Government send them to their consulate in New York and have it turn them over to some naval intelligence officer in New York, somebody that he knew. That was done. I do not know what individual brought them from New York to Washington. It may have been Baker.

Mr. CARAWAY. Why is there any mystery about it? That is what I am curious to know.

Mr. REED of Pennsylvania. The only mystery comes from the fact that Mr. Lane was asked about this without expecting to be asked about it, and he said right at the beginning that he had no personal knowledge of it. He was embarrassed by trying to tell about an incident that he had heard of only scantily.

Mr. CARAWAY. Does not the Senator think Mr. Baker ought to explain where he got the papers, and how he got them, and why he was reluctant to bring them?

Mr. REED of Pennsylvania. Surely. I have no doubt he will if we ask him. I am trying to tell what I learned yesterday about this matter on making inquiry. All this came to me yesterday. I did not know it before.

Then either Baker or somebody from the Navy Department brought these papers to Washington and showed them to the State Department. They instantly knew that they were forgeries. They include a lot of preposterous yarns about military steps that our Government was preparing to take, or had taken, against Mexico. It was a whole cock-and-bull story, just like these soviet papers.

Mr. CARAWAY. At least there were 200 of them that were genuine, that somebody had stolen from the American Embassy.

Mr. REED of Pennsylvania. I have the impression—I do not want to charge anybody unjustly—that a stenographer in the American Embassy was disloyal and peddled these copies of papers that were genuine. There was nothing in them of any importance, nothing to arouse the Mexican Government; but they sufficed to furnish a background of genuineness against which they could plant their sensational forgeries.

MULTILATERAL PEACE TREATY

The Senate, in open executive session, resumed the consideration of the treaty for the renunciation of war transmitted to the Senate for ratification by the President of the United States December 4, 1928, and reported from the Committee on Foreign Relations December 19, 1928.

Mr. BROOKHART. Mr. President, the Senate has just listened to a great discussion of a great subject by a great man. I shall not refer to the Senator from Missouri as a distinguished Senator, because that description is unfair. I think the Senator is the greatest objector who has ever appeared on the floor of the Senate. He had distinguished predecessors of that type from his own State, but I think he outranks even the famous name of Thomas H. Benton.

I am not criticizing objectors. I am about 50 per cent an objector myself, although I think the Senator from Missouri is about 100 per cent, and measures up to the percentage all the time. I do not mean this afternoon to reply to his argument. With much of it I agree. I may, though, in the course of my discussion, correct with the actual facts some of the impressions left in reference to the Union of Socialist Soviet Republics.

We have heard much of the fictions of Russia and of Russian institutions; but I mean in the discussion of this treaty to point out its relation to Russia, and to point out some of the facts of that country as they exist now.

I agreed with the Senator from Missouri [Mr. REED] in opposition to the League of Nations and in opposition to the World Court. I did not oppose those things upon the ground of mere opposition, but I did not feel that the new institutions of government which they created were not based upon the economic principle of world peace, and that is the principle of cooperative economics which I recently discussed on the floor of the Senate.

The outlawry of war is the beginning of cooperation. The outlawry of war in business is the beginning of cooperation. Therefore, from my standpoint, this treaty of world peace is a different proposition from the institutions of the League of Nations and of the World Court.

This afternoon I shall not go further into the subject of this treaty being a basis of cooperation. Perhaps later in the debate I shall give some little time to an explanation of that idea; but this afternoon I want to make the claim that this treaty is a recognition of the Soviet Government. I do not mean that it is a recognition by sending an ambassador and diplomats. Those are minor matters. Those are things that may follow; but it is a recognition of the Soviet Government as a government, of its right to make treaties, and it is even joining with that government in the execution of this treaty.

Upon that basis I want to discuss the proposition of whether or not it is desirable that we should recognize the Soviet Government as a government among the civilized peoples of the world.

I visited Russia in 1923. I had read the accounts of it in the newspapers, and the published statements; and when I went into the country itself I found the story so vastly different that I think the people of this country are entitled to know the real facts. I said, when I came back, that Russia ought to be recognized as a government. I said that it was about the most stable government in Europe. This was in 1923, and every event since that time has sustained the conclusion which I presented, although at that time I was denounced as a Bolshevist and an anarchist myself, and perhaps my argument to-day will not be pleasing to my standpatter colleagues in the Senate of the United States. Perhaps they will not enjoy ratifying a treaty that is a recognition of the Soviet Government; but such is the fact.

I saw Russia. It was not a camouflaged country that I saw. You read in the papers that they show you what they want you to see, and they keep you from seeing everything that you ought not to see. That is ridiculous when you are on the ground itself. I was shown Russia by Herbert Hoover. He was in charge of the American relief administration, and he had his personal representative with me in other countries of Europe investigating cooperatives; and when I decided to go into Russia I asked permission for this representative to go with me. He desired very much to go. That was Dr. Alfred P. Dennis, now vice chairman of the Tariff Commission. The permission was denied, but Mr. Hoover at once cabled to Col. William G. Haskell, who was in charge of the American relief administration under his direction, and directed Colonel Haskell to look after me in Russia. Haskell was closing the relief administration, but he had automobiles and he had interpreters, and those interpreters were nearly all czarists; they were not friendly to the Soviet régime. Haskell, with his equipment and his interpreters, is the man who showed me Russia under Mr. Hoover's order.

That was in 1923. Since then the firm of Col. Hugh L. Cooper, who built the Keokuk Dam, who was the consulting engineer in the construction of the Wilson Dam at Muscle Shoals, who has constructed more water-power plants than any man in all the world, has become the consulting engineer of the Soviet Government. In June, 1927, Colonel Cooper delivered a speech to the 150 American delegates on the steamer *George Washington* en route for the Fourth Congress of the International Chamber of Commerce, at Stockholm, Sweden. That speech is so able, so fair, so full and complete, that I mean to quote it very largely in my description of the Russian situation. Colonel Cooper said:

You will receive a better dividend from listening to an engineer's views about some present economic conditions in Russia if I frankly tell you at the outset:

First. That your speaker has no financial interest to gain or lose by any action you may later take as a result of what he is to tell you.

Second. That you will not be asked to make any subscriptions or extend any credit to the soviets.

Third. That your speaker does not believe in Bolshevism or Communism or any other "ism" that seeks to lead mankind away from the normalism exemplified in our best American life to-day.

Fourth. That your speaker believes the future peace of Europe depends almost entirely upon the early establishment of new and properly balanced economic conditions for the whole and not a part of its people.

This new economic theory must give Europe a substantial increase in its purchasing power, coupled with the possibility of saving something for old age. This rise in purchasing power can be produced only by increasing constantly the efficiency in the use of available natural resources and raw materials. European peace, to be worth while, must be founded upon a population happily and hopefully employed. Such employment is the only agency which can wipe out the accumulated hatreds of centuries still flowing in the blood of these 340,000,000 of people.

I think it will be conceded that the statement of those principles is of a high order and of a high value in determining the relations of the nations of the world to Soviet Russia. He continues:

The views I am to state to you have been fully expressed by me to various high officials in the Soviet Government. As we proceed you may well say to one another, and to me, "Who are you who is so bold as to propose a formula for the peace of Europe, and why should we listen to you?" I can only reply, in defense of my audacity, that history seems to record numerous instances where good has come from inconspicuous sources.

But Colonel Cooper was more modest in describing himself as an inconspicuous source than he should have been. He is really the most conspicuous power engineer in all the world. He said further:

As we travel over Europe these days and try to visualize the horrors of the Great War and its senseless destruction of lives and property and the resulting permanent punishment to industry the American observer finds it difficult to look with complacency upon what he sees; it is all so different from the happy prosperous picture he left at home. I believe our continued possession of what we now cherish may be threatened some day if the balance of the world is denied a substantial increase in its purchasing power. We must admit that modern transportation and means of communication have collectively destroyed a great many old plans of life and have given birth to a multitude of new demands as to what a man must have in order to enjoy himself, and these demands we can not ignore.

In the final analysis man's material comforts depend almost entirely on the efficiency with which his natural resources are employed. Natural resources are the foundation of all private and national wealth. The successful use of natural resources depends, first, upon the engineering profession; second, upon the proper commercial direction of the engineering; and finally, upon "live and let live" laws among neighboring nations—laws, by the way, which seem very difficult of enactment. I can see you smile when an engineer stands before you boldly declaring that the peace of the world depends not upon treaties and diplomacy, not upon congresses and conferences, but primarily upon the engineering profession in all its numerous branches. This declaration is not born of conceit or thrown out with the idea that the profession is seeking belated recognition of the value of its work to humanity; this thought is submitted for constructive criticism. I should now, perhaps, better than later, tell you I am here of my own volition and, that I do not represent any person or group of persons in Europe or America. I am devoting all my spare time, and some that I can not spare, to an attempt to enlighten the American mind about present-day Russia, and the expenses of this devotion are borne solely by me. I have just completed my third round trip to Russia in the last 10 months, and my firm is employed by the Soviet Government for the design and construction of the Dnieper River power and navigation project in southern Ukraine, near the Black Sea. This development is being financed by the Government, will cost about $75,000,000, and will produce about 1,500,000,000 kilowatt-hours of hydroelectric energy at a cost that should compare favorably with similar American power costs when the values to navigation are charged to proper amounts. The installed capacity of the plant will ultimately be 650,000 horsepower and the granite-faced dam will be of gravity overfall type, raising the natural levels of the river 120 feet for its width of about 2,300 feet. The structures to be built collectively represent the largest and most difficult engineering proposal yet actually undertaken by man. The development of this splendid natural resource is an important step forward in the engineering program that should be adopted for the whole of Europe. A careful study of Europe shows it to be sadly deficient in natural resources as compared to America. On our side of the Atlantic our 120,000,000 people have their prosperity guaranteed by natural resources of at least two and one-half times the asset value of the natural resources now available for 340,000,000 people in Europe—a per capita ratio of 7 to 1 in favor of America.

In all comparisons of Europe with America it is important that this fact be known. The great disparity of natural resources in favor of the American people is an item that must be considered and given the greatest weight in determining the relative standing in material progress of the countries of Europe and the United States.

A per capita ratio of 7 to 1 in favor of America.

That is, the American has natural resources at his command seven times as great as those of the average citizen of the countries of Europe.

In my studies of European natural resources I have found that in Russia, representing about one-seventh the landed area of the earth, there are probably more unused natural resources than in all the balance of Europe.

If, then, our premises are correct, it is immediately evident that the highest attainable efficiency in the development of Russia's resources is of first importance, not only to Russia but to all of Europe, if these countries are to carry on peacefully in the future.

In the United States to-day we consume annually about $310 worth of the things man produces. In Russia to-day this consumption is about $32. In the United States we consume about 600 kilowatt-hours of electricity per capita per annum. In Russia this rate is about 60 kilowatt-hours.

I will say that since this was written I have received charts showing a wonderful development in electrical power, and that that ratio is very greatly increased in Russia since that time. That was in June, 1927. I quote further from Colonel Cooper:

In the spread between 1 unit of life's good things for them and 10 units of life's good things for us their exists a vast potential field for a highly useful industrial expansion. The necessary natural resources and the necessary people are there. All that is needed to complete the inauguration of this new era is an industrial leadership in which these people can safely place their confidence. People are never successfully led without confidence in their leaders. You may properly inquire, "Are these people capable of doing their part in the development of a new industrial program?" If you had been with me in Moscow last month, when I studied for four hours on two different occasions, the faces of 1,500 delegates representing the entire soviet union in annual convention, you would have seen a strong, virile, determined, poorly but cleanly clad, intelligent looking in the main, body of men and women between the ages of 30 and 50. You would have been impressed with the orderliness of their ways, and no one looking at such a composite photograph could avoid the conclusion that these people are capable of producing under proper guidance a standard of living much higher than they now have. The direction they must have can not be found in Europe with its multitude of wars and resulting hatreds, extending back over many centuries. This history is full of envy and suspicion, and who would look for confidence and leadership to such a record where the life of a great nation was concerned? A parallel reliance would be found in handing over a flock of lambs to a pack of hungry wolves, expecting the lambs would grow and multiply. Outside the historical objections to finding Russia's necessary leadership in Europe, it should be noted that the Great War has compelled Europe to lag in efficiency and understanding in many lines of work, and she must first prepare her own industrial machinery very carefully or be lost in the world competition that confronts her. The leadership Russia requires can be found only in the United States.

If that statement be true, it is the most powerful argument for the recognition of Russia diplomatically as well as through the methods of this treaty.

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator by whom that statement was made?

Mr. BROOKHART. It was made by Col. Hugh L. Cooper, who built the Keokuk Dam and who was the Government's consulting engineer in the construction of the Wilson Dam at Muscle Shoals, and who has constructed more water-power projects than any man in this world.

Mr. KING. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. GLENN in the chair). Does the Senator from Iowa yield to the Senator from Utah?

Mr. BROOKHART. I yield.

Mr. KING. I do not know Mr. Cooper nor do I wish to qualify the eulogies bestowed upon him by the Senator from Iowa, but when Mr. Cooper says there is no industrial leadership available to Russia except in the United States and that Russia must look to this country for such leadership, I express dissent. I was in Russia shortly after the Senator was there, and in company with Senator Ladd, Congressman FREAR, Professor Johnson, and several others traveled nearly 10,000 miles through that rather dark and mysterious land. We met thousands and tens of thousands of people in all parts of Russia and made a close study of industrial and economic conditions. Russia, it is true, at that time lacked industrial leadership for the reason that most of the industrial leaders had either been killed or driven from Russia. But the communist leaders who precipitated the revolution and set up the Bolshevik régime discovered that their policy would prevent economic rehabilitation; that it was necessary to have technical men and competent economic leaders if industry was to revive and Russia be res-

cued from the pit into which it had been thrown by communism. Accordingly some of the owners and operators of business enterprises were being permitted to return to Russia.

Mr. BROOKHART. I think the Senator did not understand the idea that Colonel Cooper intended to express. He was not criticizing Russian leadership. In fact, as I read a little earlier from his speech, he praised them and said it was true that the outside leadership must come from the United States.

Mr. KING. If I may trespass further upon the Senator's time; when I was there not only had a considerable number of Russian industrial leaders returned but a number of foreigners, technical men and others who were competent to operate plants and develop important enterprises, were to be found in various parts of Russia. Germany and Sweden had furnished a number of men of the character referred to. Indeed, business and scientific persons were being employed in a number of the business enterprises there found. But the Bolshevist officials imposed such restriction and interposed so many obstacles that men of ability and skill and technical qualifications could not accomplish what they desired. The result was that some who had gone to Russia to help develop her industries were constrained to leave. On the same boat that carried former Senator Ladd, Congressman FREAR, and myself across the Atlantic were a number of technical oil men en route to the Baku oil fields on the Caspian Sea. Several months later we found them at Baku. They went there for the purpose of trying to reclaim oil wells which had been destroyed by the Bolsheviks and to apply modern technical methods to the development of other oil wells.

Mr. BROOKHART. Destroyed by the Bolsheviks? I would say they were destroyed by counter-revolutionists. Most of the destruction occurred in those counter-revolutions.

Mr. KING. I shall not stop to enter into a discussion with the Senator as to who destroyed hundreds of oil wells. I will say, however, that the Bolsheviks did injure many wells and discharge bombs in some. It is quite likely that some of the forces under Kolchak, who was seeking to preserve Russia from Bolshevik rule, contributed to the ruin which was wrought in the Baku oil fields.

But to return, the Americans, to whom I have referred and who were in Russia to aid in reviving the oil industry, were unable to accomplish the purpose for which they went. Some of them told me that it was practically impossible for them to work under the restrictions and regulations that were interposed and enforced by the Bolshevik régime.

Mr. BROOKHART. Will the Senator let me interrupt him at that point? I shall present charts before I finish showing that they did work under the Bolshevik Government, and showing the most wonderful development, almost beyond belief, that has occurred since them. My charts were prepared by Prof. A. A. Johnson, who was with the Senator.

Mr. KING. Let me complete my thought. Upon the same boat which carried me back to the United States were some of the men who had gone to Russia to help her, but they were forced to depart because of the obstacles interposed by the Bolshevists, which made their mission impossible. They threw up their contract and returned to the United States. They were technical men and competent to develop the oil fields of Russia, but soviet stupidity and arrogance made it impossible for them to remain.

It is quite likely that during the five years that have intervened since then progress has been made in Russia. The Bolshevists have profited by the mistakes which they made. They have gained experience and have secured from European countries a number of competent men to aid in their efforts to revive industry. Moreover, there has been improvement in the business methods employed, and many Russians have qualified themselves for excellent services in the various enterprises that have received attention.

In the Baku oil district there were more than 5,000 producing oil wells in 1914 and 1915. When I was there scarcely 1,200 were in operation, and the yield was far below normal. But the point I am trying to make is that there are technical experts and competent business men that can be obtained in Europe who are willing to accept employment and give the benefit of their technical skill and knowledge to the development of the resources of Russia. That is particularly true of the Germans. But the impediments offered by the Russians when I was there were so great as to prevent such aid being furnished.

Mr. BROOKHART. Does the Senator mean by that statement that he is opposed to the American experts and American leaders availing themselves of this greatest opportunity in all the world?

Mr. KING. I do not concede it is the greatest opportunity in all the world. The same opportunity has been offered to Germany and other European countries, but has proven disappointing. Russia wants capital—whether from America or elsewhere, and any country that will supply capital can find in Russia an eager market. I do not speak of the security that will be offered. However, I am glad to see Americans, as well as nationals from other countries, visit Russia. They will aid in developing Russia and in bringing greater liberty to the Russian people. When I returned from Russia I recommended that under certain conditions trade relations be entered into with the Soviet Government, although there were no obstacles to trade, except such as Russia imposed. The trouble was that the Bolshevist Government controls all foreign trade, and at that time Russia had limited exports and could purchase but a limited volume of commodities. When I saw Chicherin and the other leaders of the Communists—and I saw them all except Lenin, who was then dying—I stated that the only conditions that I would insist upon as a sine qua non to the recognition of the Bolshevik régime were, first, that the Bolshevik Government should dissociate itself from the Third Internationale, and no longer subsidize it and employ it to spread revolution and disorder in other countries and particularly the United States; and, secondly, that it should observe its international obligations as other governments observed their obligations. I said that so far as the debts owing the United States, amounting to approximately $300,000,000, I was willing to forego them.

I wanted to help Russia. I sympathized with her people and was desirous of seeing them develop and obtain liberty and justice.

I could see that one of the instrumentalities to effectuate reforms was contact with the outside world. I wanted Americans and Europeans to go into Russia, believing that it would tend to break down barriers and liberate the people from the tyranny of Bolshevism. I believe that trade between Russia and the outside world would do much to destroy Bolshevism and advance the cause of freedom among the Russian people. However, the leaders refused to dissociate themselves from the Third Internationale and continued to maintain that sinister organization to disturb the peace of other nations and to promote a proletarian revolution. I may add, however, that I have no fears as to the results of their efforts. Communism is discredited, and it will fail in Russia and will exercise diminishing influence in other countries.

If the Soviet Government will cease its efforts to destroy the peace of the world and its efforts to injure the United States and will meet its international commitments, I should look with favor upon changing our policy toward that Government.

Mr. BROOKHART. Willing to forget the so-called debts?

Mr. KING. Oh, I stated that. That would not be, in my mind, an obstacle to recognizing the Soviet Government. I agree with the Senator. The Bolshevik Government is a stable government; those who believed that it would gradually fall were mistaken. The Bolshevik régime may exist for 25 years or for a longer period. It may be many years before the autocracy of Bolshevism will be overcome. But democracy is gaining in Russia; it will come gradually through education and development and contacts with the world and because progress is inevitable. Little by little the dark wall of Bolshevism will be forced back and ultimately Russia will become a constitutional democratic government and take high rank among the nations of the earth.

Mr. BROOKHART. A cooperative republic is my prophecy. The Senator mentioned the Third Internationale. That is a propagandist institution. That is something like the Power Trust in the United States as disclosed by the investigation of the Federal Trade Commission. Probably it may be half as dangerous as our propaganda of that kind in this country.

So far as I am concerned, I am not one of these Americans who believe that my Government is so weak or flimsy that it can be overthrown by propaganda from anybody, Third Internationale or fourth or sixteenth or any other internationale. I believe American institutions can take care of themselves against propaganda from anywhere and everywhere and everybody. This talk of putting a lid on all kinds of open discussion of questions is un-American to me. But the species of secret propaganda, such as we have had disclosed by the Power Trust investigation, I think needs some serious attention in our country probably before the Soviet Government recognizes us.

Mr. KING. Mr. President, will the Senator yield again? The Senator is very generous.

Mr. BROOKHART. I yield to the Senator from Utah.

Mr. KING. I do not believe that the Senator is quite right historically, and he will pardon me for so saying, in his allusion to the Third Internationale. It is more than a propaganda organization. The Senator must know that the Third Internationale is a creation of the Communist Party; that it is an instrumentality set up by the communist organization which dominates Russia; that the communist organization, which was con-

trolled by nine men when I was there and is controlled now by seven or nine men, determines who shall be the leaders of the Bolshevik government and who shall be officers in the Third Internationale. When I was there Trotski was a member of the Third Internationale, Zinovieff was president, and Radak was one of the leaders. Lenin was vice president. I visited their headquarters, which were maintained by the Bolshevik government and the Communist Party. They were subsidized and maintained by it. The printing press, which was operated by the Bolshevik government under the control of the Communist Party, printed the propaganda of the Third Internationale, and the Bolshevik leaders frankly confessed that the Third Internationale was the agency by which the propaganda, to use the Senator's expression, of the communist organization was being carried throughout the world.

They admitted that the mission of the Communist Party and the Third Internationale, its agent, was to bring all nations under the control of a proletariat dictatorship, and they declared that the Third Internationale would continue its activities in all countries and seek to undermine governments and dislocate their economic and industrial life, with a view to bringing about social and political revolution.

Mr. BROOKHART. Mr. President, I shall have to take some of the time myself, and I want to say a few words there.

Mr. KING. I shall not further trespass on the Senator's time.

Mr. BROOKHART. The Third Internationale, of course, is a political party. It may be a bad one. It is, however, not a grafting party. Grafting is not in existence in high places in Russia. The Russian Government is honest; its officers are not selling out. Czarists themselves told me that if an ordinary man got caught grafting he was given about three months in jail; if he were a member of the Communist Party—that is, an ordinary member of the Labor Party or the Peasant Party—they would tell him that he ought to know better, and they would give him about six months in jail; but if he were a member of the Third Internationale or the dictatorship, which the Senator from Utah has described, they took him out and shot him. In our country it appears that the higher up such an offender may be the freer he goes from punishment.

Now, about the propaganda as to overthrowing the world. That has an American sound to me. I can remember in the history of the American Revolution statements were made that we were going to overthrow the kings and potentates of all the earth. In every Fourth of July speech we still declare for that idea. No doubt the Senator from Utah has done so himself. I stopped in England on my way home and talked to the undersecretary of foreign affairs on the Fourth of July. He said, "Great Britain had not as yet recognized Russia, and the serious objection they had was the propaganda for revolution." He said, "This propaganda is a bar to any recognition of the Soviet government." "Well," I said to him, "We Americans can not say very much about that, because it was 147 years ago to-day that we promulgated the greatest revolutionary document in all the history of the world—and," I said, "We triumphed in that revolution." Then later, when Maximillian had conquered Mexico, we supported a revolution of the people, sent an army to the Rio Grande under General Sheridan, and Maximillian was driven from the throne and killed. Still later we supported a revolution in Cuba to drive a king from the American continent and we prevailed and succeeded in that revolution.

Then finally, at the end of the World War, the President of the United States, from the White House, called upon the German people to rise in revolution, drive out their Kaiser, and create a government with which we could treat, the greatest act of the life of Woodrow Wilson. I said, "Now, after we Americans have backed so much revolution as all of that, we can not criticize these poor Bolshevists for being mere revolutionists."

Mr. President, Colonel Cooper, after stating that the leadership Russia requires can be found only in the United States, says:

> No other country is so highly qualified for this job as we are.

I think that is quite an accurate statement.

> Our practical experience, geographical location, and historical record fit Russia's needs perfectly. Then why don't we take on this great opportunity? Before such a question can be properly understood or answered, we must devote time to some review of past history and its imprint on the minds of the heterogeneous multitude we are considering.
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> For about 1,000 years prior to 1917 around 95 per cent of the population of Russia was undoubtedly exploited without mercy by the remaining 5 per cent. The terrors of those centuries need not be recounted here. Even the enemies of the present Government now resident in Russia tell you freely that the revolution in 1917 was as inevitable as the rising of the sun. From 1917 to 1921 there were more revolutions and famines from within. During these four years one hundred and thirty to one hundred and forty million war-worn, starving, deluded, sick people went mad, ripped off all restraint of law they had previously known. The pendulum of frenzy swung out to the limit of possibility. The French Revolution was enacted over again on a much larger scale. We know that people from time immemorial have had leaders. They have never been able to do much without leaders.
>
> Even the wild geese of the air have a leader, and when this tremendous body of people had torn loose their fetters and were at last free, the only voice that rang out, "Follow me," was the voice of Lenin proclaiming his Marxism and communism. Among other ideas preached in effect by Lenin, was the belief that everything that was in vogue in the discarded régime was wrong and therefore its opposite must be right. Very simple and seductive reasoning this. Every listener's mind had been well fertilized for the sprouting of such seed.

At this point I want to digress to describe some of the characteristics of Lenin as I discovered them to be and as they were told me by Czarists still remaining in Russia.

The last day I was in Moscow, Colonel Haskell brought in a large number of Czarists, who had been working for him. They had been aristocrats, and one of them had been editor of one of the great newspapers during the Czarist régime. I asked them about Lenin and about the Soviet Government. Every one of them said to me that it was an honest government and that Lenin was really a great humanitarian and a great intellectual genius. They said that the revolution originally was a peaceful enough revolution; that there was not a great amount of bloodshed; that it went on in that way for a considerable length of time, and that the bloodshed which Colonel Cooper described started when the counterrevolutionists began operations with our assistance and encouragement. We were directly responsible for a large part of that by sending two armies into Russia with Kolchak in Siberia and with Yudenitch at Archangel.

The testimony of Raymond Robins, who was representing the American Red Cross in Russia at that time, before the Senate corroborates every word of the statements made to me. I talked with our military attachés who were there at that time, and they corroborate every word of it. About six months after the revolution was organized before the counter-revolutions began Colonel Robins decided to come home. He obtained a letter from Lenin—a passport, if you want to call it that—and started through Siberia. That letter carried him 11,000 miles through Russia, and was recognized as authoritative everywhere, showing the condition of security and peacefulness in the country at that time.

Then the counter-revolutions were organized and we sent an army to Archangel to encourage and help Denekin, and another went with Kolchak into Siberia. No more bloodthirsty outfits ever went forth in any country than those of Kolchak, Denekin, and Yudenitch. They were the ones who brought on the famines and the conditions that ruined Russia, and we were assisting them.

Perhaps at this time I might mention in this connection something about the debt that Russia owes other countries of the world. The Senator from Utah [Mr. KING] is willing to forgive that debt so far as the American Government is concerned, because in international law the Soviet Government had a valid counterclaim against all of it. We were aiding and abetting in all of that Great War damage.

Let me suppose that we were in trouble with England and that Russia sent an army into Canada and down and across our country, assisting an English army in the destruction of our country, and then we triumphed in the end and drove them out, as the soviet did the foreign armies which invaded the soil of Russia. In international law would we have no claim against them for the damage they wrought against us? They have a valid claim, but no one will ever hear of that claim when the various chancelleries of the world discuss the idea of the recognition of the debts of Russia. They forget that the Russian Government has a counterclaim against France and against England and against us, perhaps, several times greater than the claims we have against Russia. There will be no trouble to settle this debt problem when that principle is recognized by both countries. The Senator from Utah has recognized the principle so far as the United States is concerned, and I hope he will be able to convince the State Department of its validity.

Mr. KING. Mr. President——

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Utah?

Mr. BROOKHART. I yield.

Mr. KING. Mr. President, I hope the Senator from Iowa does not assume that my willingness to forgive the obligations of Russia to the United States rests upon the assumptions

which he has suggested. My willingness to forego that debt rests upon other grounds. I may say, broadly speaking, it rests upon my desire to help the Russian people; to aid them in the tragic struggle which is before them before they are emancipated from communist rule.

I saw, I may say to the Senator, when I was there, hundreds of thousands of people who were starving or suffering from malnutrition. I saw mothers who had, it was alleged, eaten their own children. If one's heart could be wrung, it would have been wrung in going into the Volga region and witnessing the sorrow, the tragedy, the suffering, the starvation, and death there in evidence. I came home sick at heart because of the inhumanity of man and the great suffering which, like the irresistible tide, had everwhelmed the Russian people.

I offered the first bill in the Senate to give them succor and relief, because I knew of the awful situation then existing. I recognize in the Russian people a capacity for mighty development; and sooner or later they will carry high, in my opinion, the banner of civilization, progress, and liberty.

Mr. BROOKHART. Mr. President, it took 2,000 years to make an Anglo-Saxon after he had reached about the present stage of civilization of many of the Russian people, but it will not take that long to bring Russia up as the Senator has predicted.

Since he has mentioned their suffering and the famines, I want to discuss the causes of those conditions a little more in detail. In south Russia there is as fine land as there is anywhere in the world. I rode across six or seven hundred miles of that country. It looked like my own State of Iowa, which I have always described as the best agricultural spot on earth. I saw thousands and tens of thousands of acres of corn. Planting was carried on much as it is in Iowa. I did not know they raised corn until I saw it there. Colonel Haskell told me that he had furnished some seed even from Iowa to plant some of that corn. I observed all of that; but I learned also that occasionally they have what they call a famine year in Russia. That is, they have a year in which they get no rain and no crops; and in order to meet that year they lay by a surplus to feed their stock and upon which to live during what they call the famine year; and that occurs even in this best part of Russia.

The peasants know of this condition. It has been a thousand years of history, for that matter. They had their surplus; and then Denekin came in there with his counterrevolutionary army; and Kolchak went into Siberia, and went far, even into western Russia, with his counterrevolutionary army, and we had an American army along with him, not fighting much, but aiding and abetting him just the same; and Yudenitch went in at Archangel with his counterrevolutionary army, and we had an American army there aiding and abetting him. The stories of bloodshed and torture that these counterrevolutionists perpetrated upon those innocent people are as bad as anything in the Soviet Revolution. They destroyed this surplus; and before the surplus could be replaced the famine year was upon Russia, and those people did die of starvation.

I was in villages where 60 per cent of the people died of starvation. The survivors showed me their tombs. They probably would have nearly all died if Colonel Haskell and Mr. Hoover had not gone in there with their great relief administration. Haskell went in under suspicion. The people believed he was there for the purpose of starting another counterrevolution. They thought it was a ruse on the part of the American Government to get inside and then make them trouble. They set their spies upon Haskell; and everything we have heard in the spying system of the Cheka, of that invisible institution that spies out people in Russia, was used upon Haskell and his force there. But within about three months Haskell convinced them that he was on the square. Haskell is a big American. He is now major general of the New York National Guard. Haskell, after he convinced them, became their friend; and I will say to you that in Russia, from Trotsky down to the lowest peasant, I found no one hostile to America, due to the great work of this great American in an American way.

That is the inside history of this famine and this great calamity. We were a large part of the cause of even that, and we owed them the $24,000,000 that we appropriated. We were not doing any more than we ought to have done to relieve them. Now prosperity has come to them; and we will see, as we go along from that low level, how they have risen since 1923 up to the present day. My authority is Professor Johnson, who accompanied Senator Ladd and Senator KING on their Russian trip.

But, Mr. President, I am anxious that this statement of our own great American expert be heard and be in the RECORD, and I therefore desire to proceed with the description as given by Colonel Cooper.

In the old days the people suffered from official and private graft and greed to a frightful extent.

Everybody knows that Russia was the worst country on earth for graft and corruption in the days of the Czar, and it is my belief that it is the freest of graft of any country in the world to-day. I think graft is absolutely eliminated; and that is a good deal to be said for the advancement of that people.

Colonel Cooper continues:

The whole world knows this to be a fact. The churches came in for a lot of just criticism. Marriage, home, capital, private ownership of property, vast landed estates, whose royal owners never even knew the boundaries of the same, were all viewed from afar by a peasantry treated like slaves, and all these conditions and institutions were thrown overnight into the frenzied fires of hatred without any calm reflection as to what the effects would be. The new order under Lenin decided to do away with everything that went on in the old days, and boldly substituted an entirely new plan of life and government never before tried out. The cold revelations of actual experience soon told Lenin of many errors in his plan and since 1921–22 Lenin and his successors have been compelled to modify to a radical degree many of the ideas with which they started.

Mr. President, they have modified just one idea. It is a great idea. The one they have adopted is the greatest economic idea in the world. When the Soviet Government first took over the government of Russia they confiscated the cooperatives and turned them into governmental institutions. As this statement of Colonel Cooper points out, that did not work so well so they turned them back; and in 1923, when I was there, they were just publishing the last message of Lenin to the Soviet Congress. That message called upon the government and the people to develop and to encourage cooperative economic organization in every direction.

Mr. Kinchuk, manager of the Centrasoyous, the great cooperative institution, the wholesale and foreign export corporation of the cooperatives, told me that under the help of the Soviet Government in the last year or two their volume of business had increased to six times what it was under the Czar; and I will show you a chart of an increase almost unbelievable since that date. The change to cooperation is the great change in the economic policy of the Soviet Government.

The Government has not relinquished the title to real property in that country. The title to all the real property of Russia is in the government, and it is held firmly there. They allot it to the peasants and to the dwellers in the cities for use for life. They can will away their use, but not the title. They can not speculate in it; they can not sell or dispose of it, and it remains a government property. Upon the question of cooperative or governmental industries, however, the government has yielded to the cooperatives; and I think that is largely the cause of the great success that has occurred in Russia since that date.

I have been called a Bolshevist; and if believing in cooperative economics is Bolshevism, I am the most guilty person in the world.

Returning to Colonel Cooper's statement:

Nevertheless, when you add all the pluses and minuses algebraically, you must admit that a marvelous work has been accomplished by these hard-working idealists or plead guilty to prejudice and blindness.

That is what is the matter in this country—prejudice and blindness. Why, big business in the United States has been afraid to have the plain truth told about the situation. It fears that some of these cooperative ideas are going to spread to our country. It has no fear of communism, but it is afraid of the cooperative movement. This big business institution in America is the most cowardly thing in all the world. It will not stand in the face of the facts. It runs away from them, hides them, covers them up with propaganda, as was shown in the Power Trust investigation of the Federal Trade Commission.

The sincerity of these idealists is no more to be questioned than is the sincerity of Christ's apostles.

That is Colonel Cooper's statement, and that statement is true.

We may well have sound differences as to the wisdom of what is being done, but we can not honestly accuse them of hypocrisy. In judging these people we must remember that their present-day views of life were formed through centuries of oppression and outlooks through prison bars. When the revolution ended in 1917 over 40,000 political prisoners were turned loose to add their pent-up energies to the new era they erroneously thought was the road to human happiness.

It is important that we get a general idea of what has been accomplished by the soviets up to date, for from such a picture we may learn

much that has a definite bearing on what can be done by these people in the future along industrial lines. What have they accomplished since 1921–22?

First. They have produced a stable government throughout their entire boundaries. They have less crime of all kinds than we have in New York City, Chicago, Herrin, Ill., and several other nauseous American crime centers that might be mentioned.

Second. Their financial system is on a gold basis and their State bank holds about $135,000,000 in gold and its equivalent in foreign securities as a basis for its note issue.

Third. They are successfully operating a good railway system over 50,000 miles long, and even British travelers tell you the difficult trans-Siberian service is surprisingly good.

Fourth. They have abolished graft in high places, and for the most part in low places.

Fifth. Their city streets are clean and well lighted by electricity, although the cost of electricity is too great to permit of its general use.

Mind, I read to you that the average Russian had an income of only $32 a year.

Sixth. They are spending about $90,000,000 a year on education and about $27,000,000 a year on social-welfare work.

Seventh. Since 1922–23 they have purchased in the markets of the outside world raw materials and manufactured goods of a total of more than $1,100,000,000, of which the United States supplied about $235,000,000.

This financial crowd that is not willing to recognize Russia politically is willing to recognize them when it can sell them $235,000,000 worth of goods.

No graft and no default of even a kopek stands out in this record—

You can not say that even for the record of the United States, after what the Senate has disclosed in the last few years—

it has been carefully searched in more ways than one.

Eighth. In the last three years the soviets bought raw cotton in the United States of a total value of $130,000,000 at a purchasing cost of one-twentieth of 1 per cent.

There is your cooperative purchasing cost. There is the elimination of the combination of middlemen's profits that are oppressing our people in the United States. They are eliminated in this system. One-twentieth of 1 per cent is their purchasing cost of this $130,000,000 of American cotton.

Ninth. Their government-operated Textile Syndicate manufactured and sold to Russian consumers in the fiscal year ending September 30, 1926, goods of a gross value of $750,000,000. For the fiscal year that will end September 30, 1927, the estimated business of the Textile Syndicate is $1,150,000,000.

There is no comparison like this in all the world for growth and development. Russia is at work, and Russia under this government, however much you may condemn it, is coming back; and this property and this wealth as it is produced in Russia belongs to the people of Russia, and not to a few individuals who have acquired it through corporation organization, or through economic combinations, or through special favors of laws of their country.

Tenth. The Government revenue of all kinds for the year ending September 30, 1926, was $1,927,700,000 and the expenses for the same period are $1,732,400,000.

They had a surplus of nearly $200,000,000.

The estimated same figures for the year that will end September 30, 1927, are: Receipts, $2,485,000,000; expenses, $2,229,973,000.

Again they will have a surplus of over $200,000,000.

Eleventh. In the year ending September 30, 1926, the Russian exports amounted to $334,000,000. This amount was made up in part as follows:

Cereals, all kinds, $79,000,000.
Eggs, $11,800,000.
Butter, $15,400,000.
Petroleum, $38,000,000.
Timber, $28,800,000.

In considering the foregoing statistics, you quite naturally ask at least two important questions. One, "How sure are you of your Govment-quoted figures?" My answer is, that all my data has been given me by Mr. Yazikoff, the chief statistician of the government and a very able, experienced man in this line of work. His records are continuously under the active scrutiny of internal party criticism, also the scrutiny of a bureau especially created to hunt out error. By the time government records are given out they are accepted as correct even by the opposition. Next you will say, "How efficiently do they perform all this extensive work?" My answer is as follows: The testimony of various governmental officials in high places, as recorded in many official reports and speeches printed in full in the newspapers, is all to the effect that "Up to now these achievements of ours have been accomplished with much waste."

That is their own judgment upon themselves.

"In the future we must be more efficient, because the cost of living is still far too high in Russia." In the foregoing we see only a part of what has been accomplished for and by these 140,000,000 people in about six years. When we consider that the heads of the Government are without previous experience in government and that nearly every one of them has been for years in Czardom's Siberian prisons I am willing this audience shall make up its own mind as to whether or not we have been considering something we should think some more about. In what I have hastily sketched you get an outline of what produced the present conditions, what the general industrial condition is, and what room there is for economic progress, and how this economic advancement can best be assured. Having in mind all that has been said to you, I ask you, What are we Americans going to do about this extraordinary situation in Russia? That it is extraordinary you will not question. The men at the heads of the Government and all the successive strata down to and including 120,000,000 peasants are, all over Russia, crying for American help, not so much financial help as technical help, aided by American machinery of every description. These people have a great confidence in anything that is made in America.

I will say that confidence was given to those people by this same Col. William N. Haskell. I want to give the Senate a little description of how he operated the relief administration. He looked over the situation and said "Down around Odessa you need a new road." Their wagon roads in that country are horrible. "You put these starving people to work building that road, and I will pay them in these relief supplies." They did that, and they built those roads. The only good roads I saw in Russia were the "Haskell's." They call them "Haskell's." Colonel Haskell's name has gone into the language, and it means a good road.

He said to them, "You need a hospital, and you need a children's home for these war orphans, and a children's school, and here are these old czarist buildings, occupied by the aristocrats in their day. They can be refitted and rebuilt into the best of hospitals, schools, and homes. If you will put these starving workmen to work, I will pay them with these supplies."

I saw a hospital at Kiev, down in the Ukraine, that was just being finished, part of it already being occupied, which was in as fine shape as any hospital in the city of Washington. It was one of the "Haskell's" built in that way, and paid for by the relief administration that we sent over there. There are many like stories of children's homes and schools.

The big mind of that man, Colonel Haskell, did as much to revive and restore prosperity in Russia as anything that happened. I asked Mr. Hoover if he was the author of that himself and he said "No," that it was Haskell's own plan when he went over there.

Colonel Cooper continued:

Last September I talked with three Russian chauffeurs, one of whom talked English and thought I was an Englishman, who all insisted that Buick cars are superior to Rolls-Royces. These people, with an abundant reason, believe in America as the one place in the world where they can expect help, free from envy and free from intrigue. As concrete proof of the existence of this belief, I can tell you that in the last eight months, after spirited competition with European engineering firms, the soviets have made three contracts—

I am sorry the Senator from Utah is not here now. I would like to have him know what has been going on in regard to contracts in Russia lately—

the soviets have made three contracts with three different American engineering concerns for the design and supervision of new construction in Russia, to cost in excess of $200,000,000. The fees paid these firms will not be affected by American recognition. The values of these contracts to Russia and American machinery manufacturers will be greatly enhanced by American recognition. In my opinion, no opportunity for world service of commensurate magnitude will ever knock at our door again. They need, in addition to our technical services, our machinery, tools, and equipment, and general supplies incident thereto, of an aggregate cost that simply staggers our comprehension. Without these aids Russia can never take her place as a good neighbor in the family of nations.

I will say that I can not agree with Colonel Cooper in that particular conclusion, because the development he has already shown proves that they will continue to develop, and I think the only difference is that their progress will be slower and they will be required to rely more particularly upon their own resources. But this whole account proves the success of the future.

I don't like many things I see in Russia. At home we have always fought polygamy, and yet for years we have recognized governments where polygamy was practiced.

For my part I am in complete accord with the insistence in Washington that the Third Internationale propaganda in America must cease; that payment of the Kerensky debt must be agreed upon; and that American owners must be compensated for property seized by the soviets before the United States acknowledges the Moscow Government.

I have already discussed that proposition to some extent. In the United States our Government seized all the property of the German nationals and held it against damage that was done to our nationals in Germany and until a settlement was had. The Russians have the same right to hold that property until the damages of our armies, assisting those counter-revolutionists, are settled and accounted for, and in that case I fear the balance would be against us rather than in favor of us.

What I want to know is why the representatives of 250,000,000 people with hundreds of good reasons for being on a most friendly working basis, and with, in reality, only the one question of propaganda to be thrashed out, can not find a way to sit down somewhere with all the facts on the table and agree. I believe the time has arrived when Washington should initiate a strong effort to convince Moscow of the folly of the world revolution idea represented by their Third Internationale, and some other ideas that need smoothing out. Unless some powerful disinterested national influence, such as America only can exert, comes along at an early date Europe will, in my opinion, again drift toward certain chaos.

That statement is in line with the reasons Colonel Cooper set out in the beginning. He points out that, man for man, our resources are seven times as great in the United States as are those in Europe, and then he points out that the great resources of Europe are in Russia and that more than half of them unused are in that country. Therefore, he is working to the logical conclusion of his first premise in this statement.

Europe can never have peace with 40 per cent of its population and more than half of its natural resources fenced out of economic consideration by a mass of century-old wranglings. America is the only nation with the background and ability that can give Russia successfully the counsel she needs at this critical time. We can perform this great service to the world without entangling alliances and without the sacrifice of our dignity or honor. Notes, accusations, and policies of letting them "stew in their own juice" have failed and should be abandoned. Constructive common sense should be given a chance to prove its value to suffering European humanity. For some time I have believed the major difficulty in this, as in practically all matters, is ignorance.

In that Colonel Cooper has spoken wisely again. Ignorance is what has turned the sentiment of the American people against recognition of Russia. If the facts were actually known among all our people there would be no division of sentiment, except among some of that financial group who fear cooperative development in America.

Sleeping-car window observations, newspaper stories, sporadic individual, official, and private reports will never get us anywhere with this great task. I think the United States Chamber of Commerce should be persuaded to send to Russia at once a nonpolitical investigating committee of at least 25 high-grade men, and keep them over there for at least six months.

I do not think they accepted that advice.

At the conclusion of such an investigation lots of present-day delusions in America and in Russia would be removed. To get the United States Chamber of Commerce to undertake such a work will require the help of many good men.

Why does it require the help of good men to get the United States Chamber of Commerce to go out and even find out the facts, the truth of the matter? What is the matter with the United States Chamber if that is its attitude toward truth?

It has occurred to me that if a few of your delegates to Stockholm could return via Leningrad for a 10 or 15 day trip through Russia they would thus get at least some additional knowledge above what they now have. Let these visitors talk informally with Premier Ryckoff and Foreign Minister Chicherin and weigh their views. When such a visit was completed the visitors could make up their minds as to whether they would approach the United States Chamber of Commerce in favor of the large committee.

Before I left Moscow three weeks ago I talked over with Premier Ryckoff both of these visits in a very tentative way without, of course, making any commitment, except that I might later talk to you in advocacy of these plans. "Tell them," said Mr. Ryckoff, "they will be very welcome. Tell them also, first, about all the bad you see in us, and then, if you know of any good we do, tell them about this also." If some of you later decide to go to Russia on this trip, you can do so piloted from Stockholm for the entire route by an official representative of the American-Russian Chamber of Commerce of New York, who will be at the Stockholm meeting and be able to provide you, in Stockholm, with soviet entrance and exist visas for the soviet union.

I think perhaps the balance of this is formal matter, so I ask that the remainder of the address be inserted in the RECORD at this point as part of my remarks.

The PRESIDING OFFICER (Mr. FRAZIER in the chair). Without objection, it is so ordered.

The matter referred to is as follows:

The Soviet Government will provide free special transportation for you all the time you are in their country. Hotel expenses must be paid by the visitors. I profoundly hope that a much better plan than I have here proposed will be found to start getting these two countries together. My ideas may be, and probably are, crude, but if their presentation to your attention results in a beginning of something besides long-distance talk, I shall be amply rewarded and correspondingly happy. Recognition of Russia is absolutely essential at once, if America is to do anything worth while for Russia and America. A failure to seize this great opportunity will create a just cause for perpetual humiliation at home and will result in an everlasting hurt to this people who now so anxiously plead with us to come over and help them build a new Russia. If we fail, Germany will try to take our rightful place. She can't do the work as it should be done for many reasons. Germany at best can only extend credits to Russia at a high cost to the soviets, which credits, of course, are only possible via America. All that has gone before boils down to this: Do you consider the Russian situation of sufficient importance to let it win from you some personal effort along indicated lines, or is the job too far from home?

Mr. BROOKHART. Mr. President, I want now to review the facts and figures relating to some of the conditions and developments in Russia since 1913. I very recently received a chart of the developments in Russia up to November, 1928. This is published by A. A. Johnson and associates, Springfield, Mass., United States of America. Professor Johnson, former dean of an agricultural college in one of the Western States and a noted economist, was one of the experts with the Senator from Utah [Mr. KING] and former Senator Ladd when they visited Russia. Since then he has been back many times and has made a study and charted the situation so we can see at once what has developed in that country. I want to develop some of the figures and then I shall ask that the charts on the pages which I have numbered may be inserted in the RECORD. I am informed that my request to have the charts inserted in the RECORD will have to go to the Committee on Printing, and that, of course, may be done. I shall call attention to the numbers of the charts as I proceed.

Chart No. 30 shows the large industries of the Union of the Socialist Soviet Republics. This chart starts with 1913 and ends with 1928. The figures are given in million rubles in pre-war values or prices. In 1913 the production was 5,621,000,000 rubles. In 1914 it was 5,691,000,000. In 1915 it was 6,391,000,000. This shows a considerable stimulation because of the war. In 1916 it was 6,830,000,000, which is the highest peak that Russian industrial development reached. Then came the soviet revolution in 1917, in the latter part of the year, when it dropped down to 4,344,000,000. In 1918, with counterrevolutions going on, it dropped away down to 1,941,000,000. It continued to drop in 1919 to 1,448,000,000. In 1920 it reached the bottom with 1,000,000,000. From that date began its recovery. In 1921 it increased to 1,162,000,000; in 1922 to 1,527,000,000; in 1923 to 1,981,000,000; in 1924 to 2,530,000,000; in 1925 to 3,958,000,000; in 1926 to 5,745,000,000; in 1927 to 6,723,000,000; and in 1928 to 7,588,000,000, a part of this last latter figure being estimated. I doubt if any other country in Europe shows such a recovery as that.

On Chart No. 31 is shown the yearly output per worker. This illustrates the efficiency of the workers during the various years. In 1913 the output per worker was 2,162 rubles; in 1914, 2,133 rubles; in 1915, 2,418 rubles; in 1916, 2,334 rubles. These are the highest peaks reached. Then came the revolution and it dropped to 1,436 rubles in 1917, down to 769 rubles in 1918, to 712 rubles in 1919, and reached the bottom at 629 rubles in 1920. Then began the recovery in 1921, when it reached 663 rubles; in 1922, 1,201 rubles; in 1923, 1,342 rubles; in 1924, 1,624 rubles; in 1925, 2,112 rubles; in 1926, 2,448 rubles; in 1927, 2,678 rubles; and in 1928, a small part of that being estimated, 2,993 rubles, which is nearly 200 rubles higher than the highest point in war development.

No. 32 is a chart of the cotton industry of the Soviet Republic. The production of cotton goods is given in millions of poods. I have forgotten just how much a pood weighs, but it is their standard over there. The reporter informs me it is 36.113 pounds. In 1913 they produced 25,900,000 poods of cotton; in 1914, 26,400,000; in 1915, 26,300,000; in 1916, 21,400,000; in 1917, 17,900,000. Then following the revolution it

CHART 30

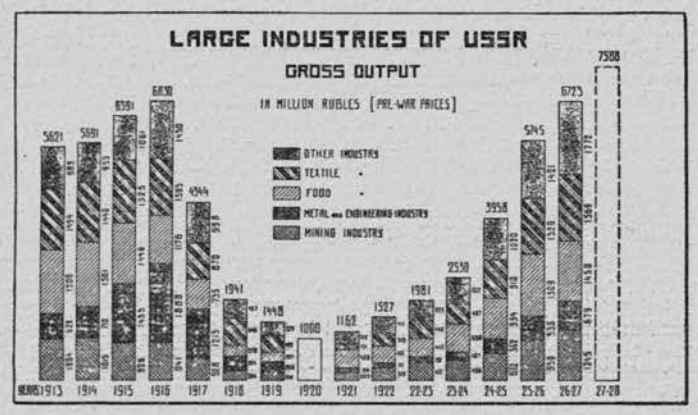


CHART 36

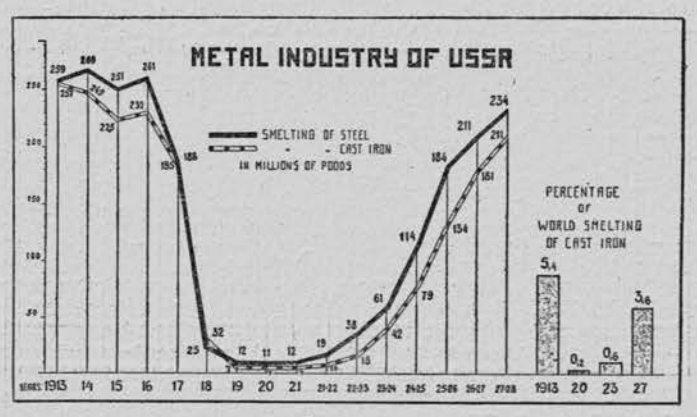


CHART 31

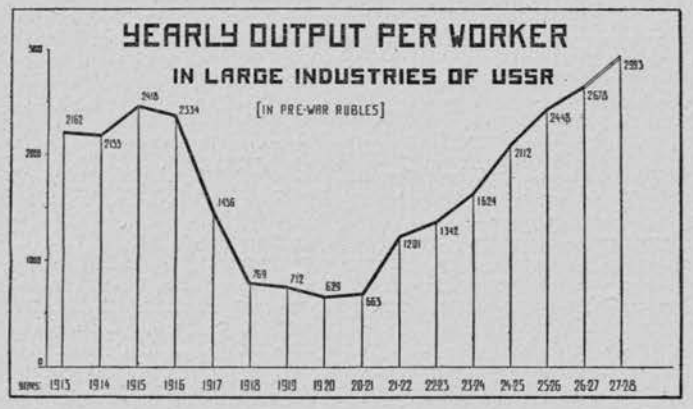


CHART 37

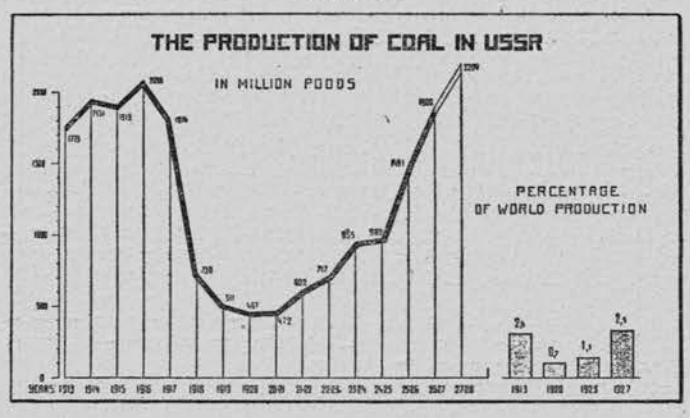


CHART 32

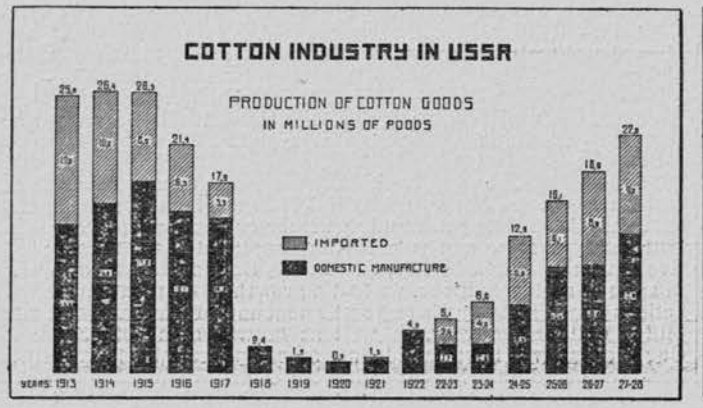
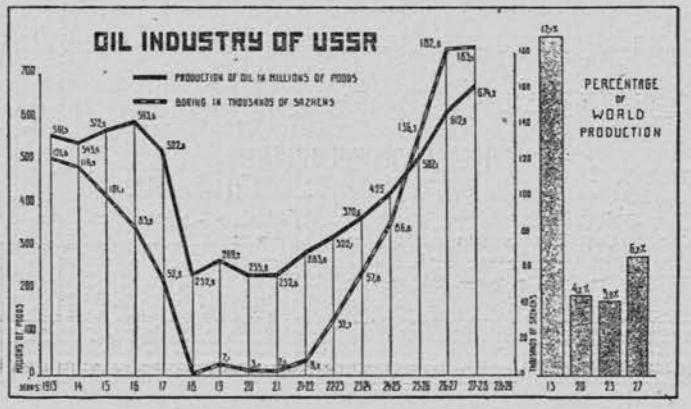


CHART 38



dropped to 2,400,000 in 1918, 1,300,000 in 1919, and 900,000 in 1920. In 1921 it came back to 1,300,000, in 1922 it was up to 4,000,000, in 1923 it was up to 5,100,000; in 1924, 6,600,000; 1925, 12,900,000; 1926, 16,100,000; in 1927, 18,900,000; and in 1928, 22,000,000. It will be noted that the highest peak was 26,400,000, so that the cotton industry has almost recovered and is almost back to its pre-war status.

No. 36 is a chart of the metal industry. This shows the smelting of steel and the smelting of cast iron in millions of poods. In the smelting of steel the highest peak was reached in 1914, being 269,000,000 poods. In 1928 it is back to 234,000,000, very close again to the pre-war level, after dropping in 1920 to 11,000,000 poods. It also shows the smelting of cast iron reached its highest peak in 1913 at 257,000,000 and in 1928 was back to 211,000,000. Of course, these industries were very largely destroyed in the war and in the counter-revolution, and yet they have made a recovery nearly back to normal pre-war times.

Chart No. 37 relates to the production of coal. This chart shows that the production of coal reached 2,096,000,000 poods in 1916. That was the highest peak reached. In 1928 it had reached 2,204,000,000 poods, that figure surpassing the pre-war production. Compare that with England and it will be seen that there is a vast difference in the recovery of Russia as compared to the great empire of the world.

Now, on Chart No. 38 I come to the oil industry, and I am sorry the Senator from Utah [Mr. KING] is not here, because in the beginning he mentioned something about oil contracts and about some men who went over there and could not get contracts good enough to satisfy them and came back. But here is what the oil industry has done: This is the production of oil in millions of poods and the borings are shown in thousands of sazhens. The oil production before the war in 1913 was 561,300,000 poods. It raised under war stimulation to only 593,600,000 poods, but in 1928 it had reached 674,200,000 poods, so that it has already surpassed the pre-war production.

The boring of oil wells was 121,800 sazhens in 1913, and it has now reached 183,300 sazhens, a considerable gain over the pre-war level, showing that the oil industry of Russia has not only recovered, but has made a very substantial advance already.

On Chart No. 40 are found statistics as to electric-power stations in Russia. This is one of the most interesting charts. The power production, in millions of kilowatt-hours—that sounds American, all right—before the war in 1913 was 1,255. In

CHART 40

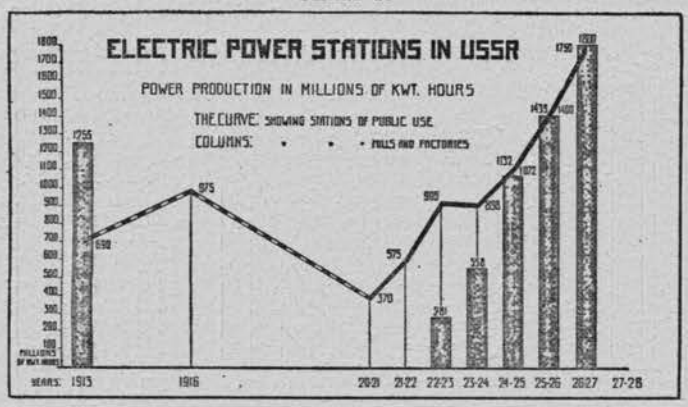


CHART 49

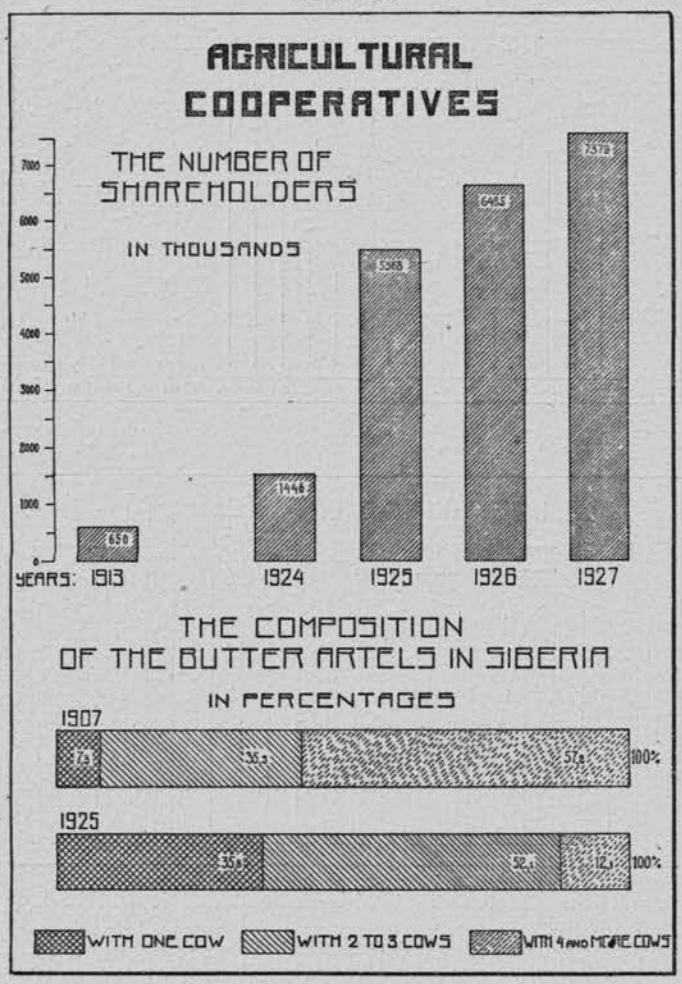
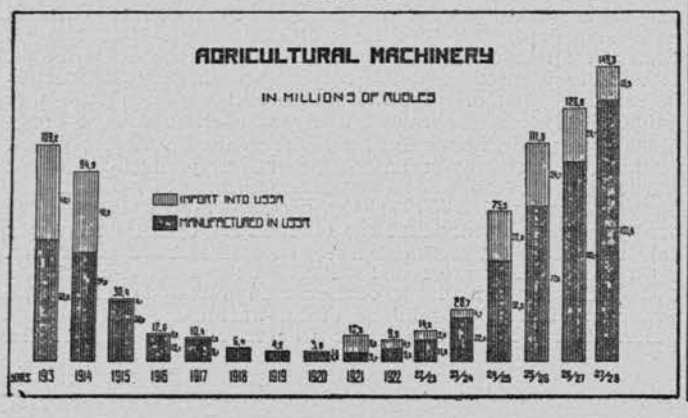


CHART 54



1923 that dropped down as low on this chart as 281, the lowest point shown, and from that low point of 281 it climbed in 1927—1928 not being given—to 1,800, or nearly 50 per cent greater than the pre-war production.

Figures as to railway transportation are shown in Chart No. 41 of this book, but will not be reproduced. This chart shows the movement of goods in billion pood versts, which compares to our ton-miles in the United States. The highest point reached before the war was 4,753, while in 1927–28 it had reached 5,239, a considerable advance or increase over the pre-war rate.

There are many other interesting charts here showing working days in the industries and the wages of the workers, and there is a showing of great improvement in all these lines. The working day in Russia in 1913, as stated in the chart on page 43, was 10 hours; in 1927 it was 7.4 hours.

The wages of the worker are given in pre-war rubles, or pre-war prices. We hear a great deal to the effect that while the worker gets a big wage in money, it will not buy anything, but this comparison has to do with what the laborer's wages buy. The highest they reached in 1913 was 25 rubles, while in 1928 they reached 29.2 rubles, on the pre-war basis. That is in the manufacturing industries.

Chart No. 49 relates to agricultural cooperatives. They are, perhaps, the most interesting organizations in Russia; so I refer to the figures. The number of shareholders, in thousands, in 1913 was 650,000. That was the membership of the agricultural cooperatives; but in 1927 there were 7,379,000, showing a tremendous growth in cooperative organizations. In fact, I think the one economic idea in Russia and everywhere else that has survived the war has been the cooperative idea. There is no other development in the world to compare with the cooperative growth in foreign countries. It has also been very great in the United States, but in the United States we have no efficient cooperative laws. Our cooperative laws are all formulated by the financial crowd, with a view in the end to destroying cooperation. We created a Federal land bank, a cooperative institution, started, of course, as a Government institution and to be turned into a cooperative. Then we tied to it a joint-stock profiteering land bank, to destroy the cooperative bank. That has been our procedure all the way through. We knew about the railway engineers organizing a cooperative bank at Cleveland, Ohio. I helped organize that bank. Warren S. Stone, the founder of it, is from my home town in Iowa. I have known him always. I was in his first convention where the bank was decided upon. It was not a cooperative bank at all, because we have no national law in the United States that will permit the organization of a cooperative bank. That is prohibited by law in every State of the Union except two. The Iowa Legislature recently, in the second session back, passed a cooperative banking law, but that does not authorize the organization of a reserve bank.

The State of Nebraska has a law in general terms authorizing cooperative banks, but authority is left in the hands of the bank examiner so that he can decide whether or not a proposed bank will be cooperative and rule out any application for a cooperative bank that might be offered. In the United States, however, in spite of such conditions, we had a growth in cooperative transactions among the farmers to the amount of two and a half billion dollars last year, as well as growth along other lines. Our cooperatives have failed, just as competitive business fails, because they do not have a federated central organization such as the laws of other countries give to them, and especially a cooperative credit system.

Mr. President, this chart which shows the cooperative growth in Russia is the best prophecy of the future of Russia. An increase in membership in that short time from 650,000 up to 7,379,000 indicates a very great growth. The cooperatives, as I have said, were confiscated at first by the Soviet Government, but they were finally turned back, and in the very last message of Lenin to the Russian Congress he said that they should be encouraged, and they have been encouraged from that date. Hence their enormous growth.

Of course, the Government should not assist a cooperative by starting it and then withdrawing its support at a time and in a way that would destroy it. That is what is so often done.

We had a War Finance Corporation to assist cooperatives in this country. It made loans to them and then called them when the cooperatives were not able to pay, and thus destroyed some of the cooperative associations. So the attitude of our law has been one of covered hostility. Why should not the farmers and the laboring people of the United States have the same right under the laws of the country to organize cooperative banking systems, with reserve banks, and all from top to bottom, under their own control just as fully developed and as fully encouraged by the Government as the commercial interests have to a competitive banking system with a competitive reserve bank under Government control?

Agriculture, of course, sustained the greatest damage in Russia during the war. In 1913 the area under cultivation in millions of dessiatins was 109; in 1927 it had climbed back to 105.5, almost equal to the pre-war figure.

Harvests in 1913 amounted in billions of poods to 5.9, while in 1927 to 4.7.

The livestock industry has shown very great improvement.

I next come to agricultural machinery. I think Chart No. 54 should go in the RECORD. It has to do with agricultural machinery and shows the importations and domestic manufacture. The value in millions of rubles before the war in 1913 was 109.2, while in 1920 it had reached 149.9, showing considerably more than a complete recovery.

Mr. President, I have here many more charts showing economic and other conditions relating to nearly everything in Russia. They really ought all to be put in the RECORD, but at this time I will content myself with those I have already offered, but I do ask that the charts on the pages whose numbers I have given may be inserted in the RECORD.

The PRESIDING OFFICER. The request will no doubt receive the immediate consideration of the Joint Committee on Printing, to whom such requests must be submitted, as provided by law.

Mr. BROOKHART. Mr. President, what I have said affords something like a picture of the present Russian situation. It is a different story from what we have been reading in all our newspapers; it is a different story even from the conclusions which have been announced by the Senator from Utah, although he concedes most of the facts which I have set forth. It is not a different story from what the late Senator Ladd, of North Dakota, told after he made his trip to Russia. I talked to him many times about what he saw and found, and in every way his report would tally with the speech of Colonel Cooper and with the charts which I have presented. It is one of the regrets of the country and of the Senate of the United States that Senator Ladd did not live to put his account of his trip and observations in the RECORD, because his able and scientific mind sized up every phase of the situation in a way that would have made it of great value in letting the American people know the real truth about this situation.

Mr. President, if we shall ratify the pending treaty—and I think we are going to ratify it—it will mean the recognition of the Russian Government; it will mean that we have become a party to a treaty contract with the Russian Government, because under its terms they have a right to adhere to it and be a party to it upon the same terms as the Government of the United States. Perhaps that will give an excuse for some of our statesmen who are considering this question to accord full recognition to Russia and open up diplomatic relations with that Government. I should like to see some American like Haskell over there as minister or ambassador from the United States. I should like to see that good feeling which he developed among all branches of the Russian Government and among all the Russian people carried to its full extent. That kind of an idea can do no harm to world peace.

In addition to that, the Russian Government has gone further than any other toward disarmament. As for myself, I think the ratification of this treaty will be a starting point toward disarmament. The Russian Government is willing now to undergo complete disarmament, and there is more sense in such a proposal than in any other of the kind. When the Russian suggestion was rejected by those who were fearful of the situation the Russian Government was willing to cut down armaments by half. They are going further in the effort to bring about world peace than is any other country in the world. They are not at the same time trying to put through a treaty and then enact a law to increase the number of their cruisers and increase other preparations for war. Therefore, I welcome the ratification of this treaty, because it will recognize the Soviet Government, as should have been done years ago.

Mr. NORRIS. Mr. President, I ask to have read at the desk a short letter written by Alice Stone Blackwell and printed in the Christian Science Monitor of January 7.

The PRESIDING OFFICER (Mr. FRAZIER in the chair). Without objection, it is so ordered.

The Chief Clerk read as follows:

[From the Christian Science Monitor of January 7, 1929]

THE CHRIST OF THE ANDES

To the CHRISTIAN SCIENCE MONITOR:

President-elect Hoover, while in Chile, was invited to see one of the world's most remarkable monuments.

In 1902 Chile and Argentina were making great preparations to go to war over a boundary dispute. Chiefly through the efforts of the women and the clergy they were persuaded to settle the question by arbitration instead. The money thus saved was used for better roads and harbors. Part of it built the great trans-Andean railway that connects Santiago with Buenos Aires.

The women of the two countries, led by Señora Angela de Oliveira Cesar de Costa, of Argentina, raised the money for a colossal statue of Jesus Christ, made of bronze obtained by melting down old cannon taken from Spain in the War of Independence. It was set up at the highest accessible point on the disputed boundary.

The day before its dedication hundreds of persons from both countries toiled up the mountains to be on hand for the unveiling. They fraternized joyously; the Chileans camped overnight on the Argentine side of the boundary, the Argentines on the Chilean side. In the morning, after hymns and prayers, the statue was unveiled amid a burst of music, with salvos of cannon and great rejoicings.

It is 26 feet high and stands on a tall granite column surmounted by a globe on which a map of the world is outlined. A tablet at the base reads: "Sooner shall these mountains crumble into dust than Argentines and Chileans break the peace to which they have pledged themselves at the feet of Christ the Redeemer."

The great statue stands near the old trail leading over the mountains from Chile to Argentina, a trail now almost disused, since a tunnel has been made through the mountain. It would have taken Mr. Hoover five hours to climb up to it, and the shortness of his stay made it impracticable for him to do so. But it is good to recall the story at this time and to remember that Argentina and Chile were the first two nations in the world to conclude a general treaty of arbitration. It is to be wished that Bolivia and Paraguay would follow the example.

ALICE STONE BLACKWELL.

DORCHESTER, MASS.

EXECUTIVE SESSION BEHIND CLOSED DOORS

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

The motion was agreed to, and the doors were closed. After five minutes spent in executive session the doors were reopened.

RECESS

Mr. CURTIS. As in open executive session, I move that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to; and (at 4 o'clock and 37 minutes p. m.) the Senate took a recess in open executive session until to-morrow, Saturday, January 12, 1929, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate January 11 (legislative day of January 7), 1929

REGISTER OF THE LAND OFFICE

Walter Spencer, of Colorado, to be register of the land office at Denver, Colo., effective February 23, 1929. (Reappointment.)

APPOINTMENTS IN THE REGULAR ARMY

CHAPLAIN

Capt. Louis Curtis Tiernan, Chaplains Reserve, to be chaplain with the rank of first lieutenant, with rank from date of appointment.

[NOTE: This message is submitted for the purpose of correcting an error in date of rank.]

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

QUARTERMASTER CORPS

Capt. Shelby Cyrus Newman, Cavalry (detailed in Quartermaster Corps), with rank from July 1, 1920.

Capt. Robert Joseph Kennedy, Finance Department, with rank from June 21, 1925.

First Lieut. Wesley Karlson, Field Artillery, with rank from July 1, 1920.

FIELD ARTILLERY

First Lieut. Alfred Percy Kitson, Infantry, with rank from July 1, 1920.

AIR CORPS

First Lieut. Joseph Smith, Cavalry (detailed in Air Corps), with rank from March 31, 1928.

Second Lieut. John Caswell Crosthwaite, Cavalry (detailed in Air Corps), with rank from June 30, 1926.

Second Lieut. Marvin Marion Burnside, Coast Artillery Corps (detailed in Air Corps), with rank from June 30, 1926.

Second Lieut. George Woodburne McGregor, Field Artillery (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. Charles Albert Harrington, Corps of Engineers (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. Maurice Francis Daly, Field Artillery (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. James Douglas Curtis, Coast Artillery Corps (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. Orrin Leigh Grover, Coast Artillery Corps (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. Milton Merrill Towner, Field Artillery (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. Fay Roscoe Upthegrove, Infantry (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. Ernest Godfrey Schmidt, Infantry (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. David Morgan Hackman, Infantry (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. Marion Huggins, Infantry (detailed in Air Corps), with rank from June 14, 1927.

Second Lieut. Neil Bosworth Harding, Infantry (detailed in Air Corps), with rank from June 14, 1927.

PROMOTIONS IN THE REGULAR ARMY

To be colonels

Lieut. Col. Francis Amory Pope, Corps of Engineers, from December 21, 1928.

Lieut. Col. Paul Stanley Bond, Corps of Engineers, from December 31, 1928.

Lieut. Col. Joseph Augustus Baer, Cavalry, from January 5, 1929.

Lieut. Col. Charles Fletcher Martin, Cavalry, from January 6, 1929.

Lieut. Col. Willis Virlin Morris, Cavalry, from January 7, 1929.

To be lieutenant colonels

Maj. James Hatch Van Horn, Signal Corps, from December 21, 1928.

Maj. Cassius McClellan Dowell, Infantry, subject to examination required by law, from December 29, 1928.

Maj. Albert Benjamin Kaempfer, Infantry, from December 31, 1928.

Maj. Forrest Elmer Overholser, Infantry, from January 3, 1929.

Maj. Charles Winder Mason, Infantry, from January 5, 1929.

Maj. Jacob Arthur Mack, Coast Artillery Corps, from January 6, 1929.

Maj. Archie Wright Barry, Air Corps, from January 7, 1929.

Maj. Edmund Louis Gruber, Field Artillery, from January 7, 1929.

To be majors

Capt. Samuel Victor Constant, Cavalry, from December 21, 1928.

Capt. William Curtis Chase, Cavalry, from December 29, 1928.

Capt. John Dunham Townsend, Infantry, from December 31, 1928.

Capt. Norman Edgar Fiske, Cavalry, subject to examination required by law, from January 3, 1929.

Capt. Wilson Tarlton Bals, Cavalry, from January 4, 1929.

Capt. Cyrus Jenness Wilder, Cavalry, from January 5, 1929.

Capt. Harold Charles Fellows, Cavalry, from January 6, 1929.

Capt. George Lester Kraft, Infantry, from January 7, 1929.

Capt. John Singleton Switzer, jr., Infantry, from January 7, 1929.

To be captains

First Lieut. Joseph Leonard Stromme, Air Corps, from December 21, 1928.

First Lieut. Robal Alphonzo Johnson, Infantry, from December 23, 1928.

First Lieut. James Palmer Blakeney, Infantry, from December 29, 1928.

First Lieut. Glen Ray Townsend, Infantry, from December 31, 1928.

First Lieut. Woodburn Edwin Remington, Infantry, from January 2, 1929.

First Lieut. Maxwell Gordon Oliver, Infantry, from January 3, 1929.

First Lieut. John Edward Nolan, Infantry, from January 4, 1929.

First Lieut. Frederick Harrison Koerbel, Coast Artillery Corps, from January 5, 1929.

First Lieut. Linton Yates Hartman, Coast Artillery Corps, from January 6, 1929.

First Lieut. Charles Richard Sargent, Infantry, from January 7, 1929.

First Lieut. Thomas Martin Tiernan, Field Artillery, from January 7, 1929.

To be first lieutenants

Second Lieut. Raymond Morralles Arthur, Coast Artillery Corps, from November 30, 1928.

Second Lieut. Thomas Thrower Mayo, Infantry, from December 3, 1928.

Second Lieut. Carroll Norton Pearce, Infantry, from December 6, 1928.

Second Lieut. Philip Mapes Shockley, Quartermaster Corps, from December 7, 1928.

Second Lieut. Ernest Tuttle Owen, Field Artillery, from December 12, 1928.

Second Lieut. Martin Hamlin Burckes, Field Artillery, from December 13, 1928.

Second Lieut. Arthur Cecil Ramsey, Infantry, from December 13, 1928.

Second Lieut. Wallace Howard Hastings, Corps of Engineers, from December 13, 1928.

Second Lieut. Albert Fox Glenn, Air Corps, from December 13, 1928.

Second Lieut. Emerson Leroy Cummings, Corps of Engineers, subject to examination required by law, from December 14, 1928.

Second Lieut. Earle Everard Partridge, Air Corps, from December 15, 1928.

Second Lieut. Fisher Shinholt Blinn, Corps of Engineers, from December 15, 1928.

Second Lieut. Donald Charles Hill, Corps of Engineers, from December 17, 1928.

Second Lieut. Benjamin Schultz Mesick, jr., Coast Artillery Corps, from December 21, 1928.

Second Lieut. Reginald Langworthy Dean, Corps of Engineers, from December 23, 1928.

Second Lieut. Merrow Egerton Sorley, Corps of Engineers, December 27, 1928.

Second Lieut. Philip Robison Garges, Corps of Engineers, subject to examination required by law, from December 27, 1928.

Second Lieut. Gerald Joseph Sullivan, Corps of Engineers, from December 29, 1928.

Second Lieut. George Dakin Crosby, Field Artillery, from December 31, 1928.

Second Lieut. Arthur Gilbert Trudeau, Corps of Engineers, from January 1, 1929.

Second Lieut. John Henry Brewer, Signal Corps, from January 2, 1929.

Second Lieut. John Held Riepe, Cavalry, from January 3, 1929.

Second Lieut. Emerson Charles Itschner, Corps of Engineers, subject to examination required by law, from January 3, 1929.

Second Lieut. Ernest Orrin Lee, Field Artillery, from January 4, 1929.

Second Lieut. Howard Ker, Corps of Engineers, from January 5, 1929.

Second Lieut. Charles Day Palmer, Field Artillery, from January 6, 1929.

Second Lieut. Herbert Davis Vogel, Corps of Engineers, subject to examination required by law, from January 7, 1929.

Second Lieut. Fremont Swift Tandy, Corps of Engineers, from January 7, 1929.

MEDICAL CORPS

To be captain

First Lieut. Stanton Knowlton Livingston, Medical Corps, from December 21, 1928.

MEDICAL ADMINISTRATIVE CORPS

To be captain

First Lieut. William Francis Coleman, Medical Administrative Corps, from January 5, 1929.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 11 (legislative day of January 7), 1929

BUREAU OF FOREIGN AND DOMESTIC COMMERCE

Frank M. Surface to be assistant director.

COAST GUARD

To be lieutenant commanders

Noble G. Ricketts.
Harold G. Bradbury.
Irving W. Buckalew.
Rae B. Hall.
Arthur G. Hall.
Ephraim Zoole.
Paul K. Perry.

To be lieutenants

Alfred C. Richmond.
Walter R. Richards.
Thomas Y. Awalt.
Roy L. Raney.
George B. Gelly.
Russell E. Wood.
Clarence H. Peterson.
James A. Hirshfield.
Joseph D. Conway.
Charles W. Lawson.
Frank T. Kenner.
George C. Carlstedt.
John Rountree.
William W. Kenner.
Stephen P. Swicegood, jr.
Henry C. Perkins.
Paul W. Collins.
Charles W. Thomas.

Frank A. Leamy.
John H. Byrd.
Beckwith Jordan.
John McCann.
Charles Etzweiler.

To be ensign

Dwight H. Dexter.

To be lieutenants (junior grade)

Henry T. Jewell.
Donald F. A. De Otte.
Irving E. Baker.
Gordon A. Littlefield.
Frank Tomkiel.
Kenneth A. Coler.
Henry J. Betzmer.
George C. Whittlesey.
Beverly E. Moodey.
John A. Fletcher.
Walter S. Anderson.

To be captain (engineering)

Christopher G. Porcher.

To be commander (engineering)

Frederick H. Young.

POSTMASTERS

ILLINOIS

Eugene L. Hiser, Bloomington.
Ralph Redding, Fisher.
Edward J. Briswalter, jr., Grayville.
Peter J. Aimone, Toluca.

MINNESOTA

Arthur F. Johnson, Dent.
Ernie L. Emmons, Emmons.
Frederick A. Cooley, Heron Lake.
Joseph L. Gilson, Ivanhoe.
Jennie L. Dowling, Olivia.
Mary A. Mogren, Ortonville.
Niels F. Petersen, Tyler.

NORTH CAROLINA

Keiffer L. Long, Thomasville.

PENNSYLVANIA

Anna Postupack, McAdoo.
Claude S. Yeager, Orwigsburg.

TENNESSEE

Grosvenor M. Steele, Bemis.
Jesse W. Alexander, Carthage.
Emma R. Kilgore, Cottagegrove.
Roe Austin, Dover.
Stephen Hixson, Dunlap.
Benjamin Ford, Hartford.
Link Monday, Kimberlin Heights.
Parks L. Hayes, Lynchburg.
Ollie F. Minton, Nashville.
Carrie S. Honeycutt, Wartburg.

VIRGINIA

Peter L. Cooper, Clarksville.
Edgar B. Elliott, Gate City.

WISCONSIN

Redmond F. English, Arcadia.

HOUSE OF REPRESENTATIVES

FRIDAY, *January 11, 1929*

The House met at 12 o'clock noon and was called to order by the Speaker.

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

Most gracious Lord, Thou who hast the power to penetrate the profound mystery of being with unerring love and sympathy, Thy mercy transcends all human affection. Thou dost not dwell in the dense haze of sullen skies to fill us with apprehension; but Thy everyday blessing is a wonderful cause for thanksgiving. Let Thy guidance be realized in the issues of our daily lives. In purpose and exalted idealism lead us to the heights of our powers and make us well worthy of a place in the councils of the Nation. By awakening intellects and spiritual emotions may we be all that we were born to be and to do. Now, Father, breathe into our souls the essence of Thy Spirit, and never allow evil to win its ministry nor permit it to claim us as its own. In the holy name of the world's Saviour. Amen.

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

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H. R. 7729. An act to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases.

SWEARING IN OF A MEMBER

The SPEAKER. The Chair lays before the House the following communication, which the Clerk will report.

The Clerk read as follows:

LITTLE ROCK, ARK., *January 10.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES:

This is to certify that at a special election held in the various counties of the second congressional district of the State of Arkansas to fill a vacancy caused by the death of the Hon. William A. Oldfield, MRS. PEARL PEDEN OLDFIELD was the nominee of the Democratic Party without opposition and was elected for the remainder of the term expiring March 4, 1929.

JIM B. HIGGINS, *Secretary of State.*

The SPEAKER. The Chair will be pleased to administer the oath to the lady from Arkansas.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent that the lady from Arkansas, Mrs. OLDFIELD, be given the oath of office and enter without further formality upon the duties of her position.

The SPEAKER. Is there objection?

There was no objection.

Thereupon Mrs. OLDFIELD, attended by Mr. GARRETT of Tennessee, appeared before the Speaker's rostrum and took the oath of office.

LEAVE TO ADDRESS THE HOUSE

Mr. CELLER. Mr. Speaker, I have unanimous consent to address the House to-day for 30 minutes after the disposal of the Army appropriation bill. I ask unanimous consent that the consent be vacated. I make this request after conference with the gentleman from New York [Mr. SNELL], and our floor leader, and I will renew that request some day next week.

The SPEAKER. Without objection, the order will be vacated.

There was no objection.

FISCAL RELATIONS BETWEEN THE FEDERAL GOVERNMENT AND THE DISTRICT OF COLUMBIA

Mr. SIMMONS. Mr. Speaker, after the passage of the District of Columbia appropriation bill last year Mr. Madden, the chairman of the Committee on Appropriations, requested the Bureau of Efficiency to make a study of the question of the fiscal relations between the United States and the District of Columbia. The result of that study has been submitted in a report to the present chairman of the committee, Mr. ANTHONY; and I ask unanimous consent that the report, with the accompanying tables and letter, be printed as a House document.

The SPEAKER. The gentleman from Nebraska asks unanimous consent that the report of the Bureau of Efficiency upon the fiscal relations between the United States and the District of Columbia be printed as public document. Is there objection?

There was no objection.

Mr. SIMMONS. The tables are rather large, and if there is any action by the House in the way of instruction to the Printing Office it should be to direct that the tables be kept complete in sheets.

The SPEAKER. The gentleman from Nebraska asks unanimous consent that the tables be printed so as to be complete by themselves. Is there objection?

Mr. CHINDBLOM. The gentleman may have to get some order from the Joint Committee on Printing. The order of the House may not be sufficient.

Mr. SIMMONS. We can dispose of that later if any difficulty is encountered, but I would like to have the permission of the House at this time.

The SPEAKER. Is there objection?

There was no objection.

REREFERENCE OF TWO RESOLUTIONS

Mr. GRAHAM. Mr. Speaker, I ask for a change of reference in the case of Senate Joint Resolution 28 and House Joint Resolution 166 from the Committee on Ways and Means to the Committee on the Judiciary. Both of those resolutions were referred to the Committee on Ways and Means, I think, under a misapprehension, owing to some unanimous-consent arrangement about having all tax-refund matters referred to the Committee on Ways and Means.

This involves the jurisdiction of the Supreme Court, and involves a change of the statute of limitations to revive some claims 60 or 70 years old. These resolutions were referred to our committee in the last Congress, and we had hearings upon them, and they were properly before the Committee on the Judiciary.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to rerefer Senate Joint Resolution 28 and House Joint Resolution 166 from the Committee on Ways and Means to the Committee on the Judiciary. Is there objection?

Mr. CRAMTON. Reserving the right to object, Mr. Speaker, what is the attitude of the other committee? Has it been consulted?

Mr. GRAHAM. I consulted with the chairman of the Committee on Ways and Means this morning, and had authority from him to say that he consented unless there was some parliamentary objection.

Mr. ALDRICH. Mr. Speaker, I object.

Mr. RANKIN. Mr. Speaker, we can not hear what is going on in the House.

The SPEAKER. The gentleman from Pennsylvania [Mr. GRAHAM] says he has consulted with the chairman of the Committee on Ways and Means and the latter had consented that he ask unanimous consent that Senate Joint Resolution 28 and House Joint Resolution 166 be rereferred to the Committee on the Judiciary from the Committee on Ways and Means.

Mr. GARRETT of Tennessee. Reserving the right to object, Mr. Speaker, is it the action of the Committee on Ways and Means or merely that of the chairman of the committee?

Mr. GRAHAM. I make the request after a conference with the chairman.

Mr. GARRETT of Tennessee. I hope the gentleman will defer his request until I can confer with the gentleman from Texas [Mr. GARNER], if he has not yet been conferred with.

Mr. GRAHAM. I am willing to have it go over.

Mr. VESTAL. Mr. Speaker, I shall object unless the gentleman from Pennsylvania withdraws his request at this time.

Mr. RANKIN. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. The gentleman from Mississippi makes the point of order that there is no quorum present. Evidently there is no quorum present.

Mr. TILSON. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 10]

Allgood	Culkin	Leatherwood	Speaks
Anthony	Curry	Leech	Stedman
Arentz	Denison	McMillan	Summers, Wash.
Bachmann	Dickstein	McSweeney	Sumners, Tex.
Bacon	Douglass, Mass.	Michaelson	Taylor, Colo.
Beck, Pa.	Doyle	Milligan	Taylor, Tenn.
Bell	Evans, Mont.	Monast	Temple
Berger	Fletcher	Moore, Ky.	Tillman
Blanton	Gasque	Morin	Updike
Boies	Golder	O'Brien	Ware
Brand, Ga.	Goldsborough	O'Connor, N. Y.	Warren
Britten	Griest	Oliver, N. Y.	Weller
Browne	Hope	Palmer	White, Colo.
Buckbee	Kendall	Patterson	White, Kans.
Canfield	Kerr	Prall	Williamson
Casey	Kindred	Pratt	Wilson, Miss.
Clancy	King	Quayle	Winter
Crowther	Kunz	Robsion, Ky.	Wolfenden

The SPEAKER. Three hundred and fifty-five Members are present, a quorum.

Mr. TILSON. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

INVESTIGATION OF EXPENDITURES TO INFLUENCE CONGRESS REGARDING FOREIGN POLICIES

Mr. TINKHAM. Mr. Speaker, with unanimous consent I desire to have a resolution printed as an extension of remarks, and certain statements in relation to the resolution made by myself.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to extend his remarks by printing a resolution, and a statement made by himself with relation to the resolution. Is there objection?

Mr. RANKIN. Mr. Speaker, reserving the right to object, may I ask if the resolution has been introduced?

Mr. TINKHAM. It has been introduced.

Mr. BANKHEAD. What is the resolution?

Mr. RANKIN. The gentleman is asking permission to insert some kind of a resolution which he has written on the race problem. Mr. Speaker, I object.

Mr. TINKHAM. This has nothing to do with the race problem in any way. It refers to the multilateral treaty.

Mr. RANKIN. That is all right.

The SPEAKER. Is there objection?

There was no objection.

Mr. TINKHAM. Mr. Speaker, under the leave the extend my remarks in the RECORD I include the following resolution and statement:

RESOLUTION

Whereas the United States was established as a free and independent country with no foreign entanglements, and by strict adherence to this traditional policy has become a great and powerful Nation; and

Whereas the American people have shown repeatedly by the defeat of parties and individuals who have advocated or supported a policy favoring foreign entanglements that they firmly believe that the United States should continue to devote itself to its own affairs, the welfare of its own people, and the maintenance of its independence, and not attempt to regulate the affairs of other peoples; and

Whereas the covenant of the League of Nations was rejected by the United States in 1919 because it was a military and political alliance for the domination of the world; and

Whereas adherence of the United States to the protocol of the Permanent Court of International Justice of the League of Nations was revealed to be an indirect entry into the League of Nations, the court being exposed as an organ and political instrumentality of the league; and

Whereas the adherence of the United States to the Permanent Court of International Justice of the League of Nations, with reservations, adopted by the Senate in 1926, was not accepted by the League of Nations because one of the reservations would curtail its political activities; and

Whereas the present multilateral treaty now before the Senate is a dangerous and indirect advance toward entry into the Permanent Court of International Justice and into the League of Nations and is another attempt to entangle the United States in the policies and affairs of other nations; and

Whereas immense sums of money were spent to create a public opinion in the United States favorable to the United States joining the League of Nations and subsequently adhering to the Permanent Court of International Justice of the League of Nations and are now being spent for the acceptance of the multilateral treaty by the United States contrary to its best interest; and

Whereas it is alleged that international bankers, United States international business organizations and their legal representatives, and foreign interests are systematically engaged in this expenditure; and

Whereas the amount of money so spent and the sources from which it comes should be known to the American people: Therefore be it

Resolved, That a select committee is hereby created, to consist of five members, to be appointed by the Speaker of the House of Representatives, to investigate the payment and expenditure of any money by international bankers, United States international business organizations and their legal representatives, and foreign interests, and from any other source, to create a public opinion in the United States favorable to the United States joining the League of Nations, adhering to the Permanent Court of International Justice of the League of Nations, and to the acceptance of the multilateral treaty by the United States; and said committee is authorized to send for persons and papers, to compel the attendance of and to administer oaths to witnesses, to conduct such inquiries at such times and places as the committee may deem necessary, and to report its findings and recommendations to the House of Representatives at the earliest practicable date.

STATEMENT

For nearly a century the international bankers and great business interests in Europe have directed and controlled in large measure the foreign policies of their respective countries. It has not been uncommon in Europe for foreign interests to spend large sums of money to effect their political purposes in alien states. These nefarious practices now obtain in the United States and should be exposed. A network of expensive organized propaganda and intrigue to influence the foreign policies of the United States would be revealed by an investigation.

Vast sums of money were expended from such sources to influence the United States to join the League of Nations, and when that proposal was defeated, to adhere to the Permanent Court of International Justice of the League of Nations as a first step toward entry into the league itself. This attempt not having yet succeeded, immense sums of money are now being expended to influence the United States to accept the multilateral treaty, first to implicate the United States in international and particularly European affairs, and then to lead the United States to membership in the Permanent Court of International Justice of the League of Nations and finally in the league itself. Back of these attempts have been the vital interests of the international bankers, the United States international business organizations and European interests to maintain the status quo in Europe for their own purposes.

It has been the traditional policy of the United States—and a sound one—that investments in foreign countries by private citizens of the United States are made at the risk of the investor. An attempt is now being made to safeguard such investments by international commitments on the part of the Government of the United States. The United States should not be entangled for all time in a position so fraught with uncertainty and peril for the welfare and safety of its people and its independence to maintain the status quo for the purpose

of safeguarding public or private investments, large as these now are in Europe.

The proposal of the multilateral treaty by the United States was hailed at once at Geneva and in Europe generally as bringing the United States into closest contact with world and particularly European politics. It was declared that through this treaty the United States would be called upon to speak its mind, to express its opinion, and to take sides in the disputes of Europe and in defense of its treaty—even more than this, it was said to mean United States support of the policies of the League of Nations and the maintenance of the status quo in Europe.

This is the understanding of Europe, and if it is not the understanding of the United States another dangerous difference is added to those already existing.

The multilateral treaty so far as the renunciation of war as a national policy is concerned has been practically nullified by the exceptions made by the various governments before signing the treaty. These exceptions are (1) the right to make war in self-defense, each country to determine for itself the question of self-defense; (2) the right to make wars authorized under the League of Nations; (3) the right to make wars authorized under the Locarno treaty; (4) the right to make wars arising under the French treaties of alliance; and (5) the right claimed by Great Britain to use war as an instrument of national policy in certain undefined "regions of the world" any "interference" with which by anybody, including the United States, would be regarded by Great Britain as a cause of war.

In the last hundred years no nation has declared a war that was not alleged to be a war of self-defense.

The exception made by Great Britain allows her to make war anywhere in the world since the zones in which she claims the right to make war are wholly undetermined except that they shall be of "special and vital interest" for her "peace and safety" as she may determine. There are no geographical limitations.

The multilateral treaty as qualified by these exceptions not only constitutes no renunciation of war but in fact and in law is a solemn sanction for all wars mentioned in the exceptions—the most solemn sanction for specific wars that has ever been given to the world. But much more than this if we recognize as we do the legality of league wars and Locarno wars; once this treaty is signed we are bound by league decisions as to aggressors and league policy generally, but without opportunity to take part in the deliberations leading to league conclusions. Unless we make clear our understanding of this treaty, as have other nations, we alone are bound by its explicit terms and we alone are subject to the will of other nations, in addition to losing our right to trade as a neutral nation in time of war.

But of even more peril to us is the fact that the treaty, if ratified, will inevitably lead to the destruction of our Navy while other nations are armed or arming. If we should maintain an adequate Navy for defense, we should be charged with bad faith. Already these charges are being made. Deprived of an adequate Navy, one of the great auxiliaries to diplomacy, we should be impotent in world affairs and should have no decisive influence in an international crisis.

In addition to renouncing war as a national policy, the multilateral treaty provides that the settlement of disputes "shall never be sought except by pacific means," and for the settlement of disputes it is already again being urged that we enter the Permanent Court of International Justice, although this court is not an independent court representing nations directly, but the instrumentality, agent, and servant of the League of Nations, and notwithstanding, furthermore, that the statute setting up the court provides that nations not members of it may have recourse to it.

The President's statement on November 11, 1926, at Kansas City (uttered after the Council of the League of Nations had indicated its unwillingness to accept the Senate reservation curtailing the political power of the court) that: "The situation has been sufficiently developed so that I feel warranted in saying that I do not intend to ask the Senate to modify its position," was universally accepted as terminating the attempt of the United States to enter the court. Notwithstanding this statement, a dispatch published in American newspapers on November 24 last reported that the administration "appears to be inclined to make another effort to bring the United States into membership of the League of Nations' Permanent Court of International Justice."

The acceptance of the multilateral treaty means that the United States is subject to league policies without participating in league decisions; it means membership in the league's court, which means eventual full membership in the League of Nations itself.

Statesmanship should deal with the real and vital international issue for the United States, the freedom of the seas. Until it is settled by a formulation of international law that neutral commerce shall not be interfered with in time of war, there can be no final harmony between the United States and foreign nations. It was because there was no such formulation that the United States was forced into war in 1812 and in 1917, and she will be forced into war again unless the seas are freed. It has been repeatedly suggested that a conference be held for the codification of international law, including maritime law in time of war. But because this proposal was not spectacular enough and held no domestic political advantage, it has been repeatedly rejected.

APPORTIONMENT OF REPRESENTATIVES

Mr. FENN. 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. 11725) for the apportionment of Representatives in Congress.

The motion was agreed to.

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. 11725, with Mr. CHINDBLOM in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 11725, which the Clerk will report by title.

The Clerk read the title of the bill.

The CHAIRMAN. When the committee rose last evening, the first section had been read, with committee amendments. The question before the committee is on the first committee amendment.

Mr. DICKINSON of Iowa. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from Iowa rise?

Mr. DICKINSON of Iowa. Mr. Chairman, I offer an amendment as a substitute for the first section of the bill.

The CHAIRMAN. The question now is on the first committee amendment.

Mr. DICKINSON of Iowa. If this is offered as a substitute for this section, it takes with it all subsequent amendments to strike out the remaining sections.

The CHAIRMAN. It can be pending.

Mr. DICKINSON of Iowa. I want to offer it at this time. I ask that it be reported as pending, for further consideration when the perfecting amendments are completed. I want to say that if this is adopted, I shall make a further motion, as time goes on, to strike out the remaining sections of the bill.

Mr. TREADWAY rose.

The CHAIRMAN. For what purpose does the gentleman from Massachusetts rise?

Mr. TREADWAY. Mr. Chairman, I move to strike out the last two words of the committee amendment.

Mr. SNELL. Mr. Chairman, may we understand just what the parliamentary situation is now?

The CHAIRMAN. The gentleman from Massachusetts was on his feet and the gentleman from Iowa was before the Chair. The Chair inquired for what purpose the gentleman from Iowa rose and he stated his purpose. The Chair will recognize the gentleman from Iowa later, but he feels he should recognize the gentleman from Massachusetts, who has made a pro forma motion on the first committee amendment and who desires to speak for five minutes.

Mr. DICKINSON of Iowa. Mr. Chairman, I am offering a substitute and I would like to have it reported at this time before we consider the committee amendment. It might have a bearing on whether the committee will approve or reject the perfecting amendment.

The CHAIRMAN. The Chair will recognize the gentleman from Massachusetts [Mr. TREADWAY], who was on his feet, on his pro forma amendment.

Mr. TREADWAY. Mr. Chairman, continuous committee service, such as the Ways and Means Committee is called upon to perform at the present time, has its drawbacks so far as presence of Members on the floor is concerned. In connection with this bill, I therefore will simply express a very brief personal view on the general subject.

My thought is that the present number of Members of the House of Representatives—435—is as large as can be properly cared for and handled under our method of procedure. Any greater number would make an unwieldy body. I am opposed to any move that would increase the membership beyond the present number.

I have the honor of representing in part a State that is perhaps likely to lose a Member if we do not increase the membership beyond the number of 435. Irrespective of its effect on the State of Massachusetts, irrespective of its effect upon the district I represent, and irrespective of the possible political effect on me personally, I approve of the Fenn bill. [Applause.]

I think it would be a very unfortunate argument for Representatives of a State to say that their State would lose under any particular form of representation or reapportionment. We, as Members of this House, owe it to the American people to reapportion Congress in accordance with the Constitution of this country. [Applause.] The effect of this action for one

State or one district is absolutely immaterial to me. I shall vote most heartily for the Fenn bill. [Applause.]

Now, what object is there in saying that because our population increases we should likewise increase the representation in the House of Representatives? Are we not comparable with the States? In the 48 States of the Union, or in nearly all of them, the constitutions of the States or Commonwealths provide arbitrarily for the number of Members who serve in the legislatures. The population has nothing to do with the membership of the Legislature of New York or of Massachusetts or perhaps of any other State. If it is not directly provided for in the State constitution, it is provided for in some permanent record of the State.

We have in Massachusetts 40 members of the State senate and 240 members of the house. It makes no difference whether the population in that States goes up or down, the legislative representation is the same.

Mr. STEVENSON. Will the gentleman yield?

Mr. TREADWAY. I am sorry, but I have such brief time——

Mr. STEVENSON. I was just going to ask if your State does not apportion them among the counties according to population?

Mr. TREADWAY. We apportion them equitably in the State and that is exactly what the Congress will do. If we keep our membership at 435 we will apportion that number equitably to the States and that is what the Fenn bill is intended to accomplish.

I think we have been very derelict in our duty as Congressmen in not pushing this legislation sooner. As I see it, we have disobeyed, no matter what the reason therefor, the Constitution of this country in that we are now living under an apportionment based on the 1910 census, whereas a reapportionment should have promptly followed the census of 1920.

Mr. DICKINSON of Iowa. Will the gentleman yield?

Mr. TREADWAY. I want to see this legislation enacted now in order to prepare for the census of 1930, and it seems to me the only way we can do this is to be unselfish in our way of proceeding. Whether we are representing a State that is going to gain or one that is going to lose in the reapportionment, let us be men and do our job as it is here for us to do, and be prepared for whatever results may come from the census of 1930 to our individual interests or to our respective States. [Applause.]

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn.

Mr. CRAIL. There is objection. I want to speak on the amendment.

Mr. BANKHEAD. Mr. Chairman, I make the point of order that the proper parliamentary procedure is for the Chair to insist that the committee amendments be acted upon unless unanimous consent is given otherwise.

Mr. RANKIN. Then, Mr. Chairman, I ask unanimous consent that we postpone disposing of the committee amendments until we finish the section.

Mr. BLACK of Texas. Mr. Chairman, I object to that.

The CHAIRMAN. The gentleman from Texas objects to the unanimous-consent request of the gentleman from Mississippi, and the gentleman from California objects to the withdrawal of the pro forma amendment. The question is on agreeing to the pro forma amendment.

The pro forma amendment was rejected.

The CHAIRMAN. The gentleman from Iowa [Mr. DICKINSON] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DICKINSON of Iowa as a substitute for the bill: Strike out section 1 and insert in lieu thereof the following:

"*Be it enacted, etc.*, That on the first day of the second regular session of the Seventy-first Congress the Secretary of Commerce shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the 1930 census of the population, and the number of Representatives to which each State would be entitled under an apportionment of 435 Representatives made in the following manner: By apportioning one Representative to each State (as required by the Constitution) and by apportioning the remainder of the 435 Representatives among the several States according to their respective numbers as shown by such census by the method known as the method of equal proportions, and that the House of Representatives shall be reapportioned on that basis.

Mr. BLACK of Texas. Mr. Chairman, I make the point of order that the amendment is not in order until the committee amendment is acted upon. This amendment is offered to strike out the section and substitute another. I have no objection to the gentleman from Iowa discussing his amendment, but the committee amendment should be voted on prior to his amendment.

Mr. GARRETT of Tennessee. Only the committee amendment to this section.

Mr. BLACK of Texas. That is right.

The CHAIRMAN. Does the gentleman from Iowa offer this as a substitute for the first section or for the entire bill?

Mr. DICKINSON of Iowa. I offer it at this point as a substitute for the first section, with the notice that if adopted I shall move to strike out the balance of the sections of the bill. It is a substitute for section 1, and also a substitute for the entire bill.

Mr. GARRETT of Tennessee. The only question is as to the point of order made by the gentleman from Texas; that is that the committee amendment to the first paragraph be perfected.

The CHAIRMAN. All committee amendments will be disposed of before the substitute is voted upon. The Chair will recognize the gentleman from Iowa.

Mr. DICKINSON of Iowa. Mr. Chairman, I am offering this as a substitute for the first section of the bill, with notice that if the amendment to the first section is adopted I shall move to strike out the subsequent sections. I do that for the following reasons: First, it is a statement by the House that the sentiment of this Congress is for a House of 435 Members, and recommends that an apportionment be made on that basis in the future. It does not assume to try to control the next Congress as to what shall be done; it does not delegate any authority to any bureau that shall recommend to the House what to do; it does not put in anybody's hands the machinery by which they can automatically take away from one State a Member of Congress or give to another State a Member of Congress.

I, for one, am in favor of keeping the House at a membership of 435. I want to say to those who have opposed the apportionment that they have contributed as much to the defeat of the apportionment bill as those of us who said that the apportionment would not be fair by reason of the fact that the census was taken following the war when there was a great decrease in the number of people. Do not try to place all the blame on those States which have had a decrease since the last census, because these two things were contributive factors to the defeat of the last apportionment bill.

Mr. TUCKER. Will the gentleman yield?

Mr. DICKINSON of Iowa. I yield.

Mr. TUCKER. I want to say to the gentleman that at the proper time I expect to offer an amendment to strike out sections 3, 4, and 5 of the bill. I want to ask the gentleman whether his substitute carries those sections?

Mr. DICKINSON of Iowa. It does not, but I shall move to strike them out. I would be glad to have the gentleman from Virginia move to strike them out. But I think the most vicious section in the bill is section 2.

Mr. RANKIN. Will the gentleman yield?

Mr. DICKINSON of Iowa. I yield to the gentleman from Mississippi.

Mr. RANKIN. If the gentleman was present yesterday and heard my remarks, he is aware of the fact that I am in favor of reapportioning the House after we get the census of 1930.

Mr. DICKINSON of Iowa. I so understand.

Mr. RANKIN. Does the gentleman's substitute contain the solemn declaration that the reapportionment shall be on the basis of the 1930 census?

Mr. DICKINSON of Iowa. Absolutely.

Mr. RANKIN. Do you propose by your substitute to delegate the power of making a reapportionment to the Secretary of Commerce or to some one else?

Mr. DICKINSON of Iowa. I do not; I am against any such delegation of power, and that is why I am so bitterly opposed to this bill.

When you say that you are not delegating any authority, you must admit that you are setting up machinery by which somebody else is going to make an apportionment rather than the Congress itself. You are providing whereby and how and how many, and then you say that it is practically going to be automatic because if Congress does not do what you say is the solemn pledge of the Constitution, then it becomes automatic and the House is reapportioned by a certain certificate from the Census Bureau as to the number of representatives there should be and the number which each State should have.

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

Mr. DICKINSON of Iowa. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

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

Mr. DICKINSON of Iowa. Yes.

Mr. MAPES. As I understand the gentleman's proposal, it only declares that it is the judgment of this Congress that the membership of the House should remain at 435, but it does not in any way provide for a reapportionment after the 1930 census. It merely recommends that such reapportionment shall be made by the Congress at that time.

Mr. DICKINSON of Iowa. Yes. In other words, any assumption at reapportionment on the part of this Congress for the 1930 census is simply trying to usurp the powers and functions of the next Congress.

Mr. MAPES. If that is all that the gentleman's amendment proposes to do, will the gentleman explain to the House how it in any way creates any different situation than we are in now, without the passage of the amendment?

Mr. DICKINSON of Iowa. It simply does this: It expresses to the next Congress what the desire of this Congress is, and it would be in a way the commitment of a great many Members of the House that are Members of this Congress who will be Members of the next Congress, such as the gentleman from Mississippi [Mr. RANKIN] and myself, that we are not going to stand in the way of a proper reapportionment after that census is taken, because we believe in reapportionment, and we also believe in 435 Members of the House.

Mr. RANKIN. And, if the gentleman will permit, it also answers the charge that we are opposed to a reapportionment under any circumstances. It answers that charge by a solemn declaration stating that we are in favor of reapportioning the House as soon as you give us the census of 1930.

Mr. MAPES. As a matter of fact, the amendment means nothing.

Mr. DICKINSON of Iowa. Oh, it means just as much as this does here, providing the next Congress assumed the authority that it ought to assume, and it will tell you that it is not any of your business what they want to do when it comes to reapportionment in the Seventy-first Congress.

Mr. TILSON. Does it not mean this also, that if the next Congress acts in accordance with the recommendation of the Secretary of Commerce it will accomplish exactly the same results that we are accomplishing by this bill, so what is the gain? It does exactly the thing this bill proposes to do, and why should not we do it now?

Mr. DICKINSON of Iowa. Let me suggest to the gentleman why we could not do it. In your bill you say that it is not going to be just for the Seventy-first Congress but for every Congress following for 10 years, and it also says that in case Congress does not do that, it is going to be automatically done, and if the gentleman is the leader of the House at that time, I shall be ashamed of the leadership unless he assumes the authority of his position and says that it is the duty of Congress to do this, and that it shall not be done by any Government bureau chief down here. [Applause.]

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

Mr. DICKINSON of Iowa. Yes.

Mr. JACOBSTEIN. Just for information, does not the gentleman's amendment merely ask the Secretary of Commerce to submit to the districts as to what the apportionment would be for 435? It does not even express the hope that it will be limited to 435.

Mr. DICKINSON of Iowa. Oh, yes, it does. It says that there shall be a reapportionment on that basis.

Mr. JACOBSTEIN. And he is merely to submit the figure to us?

Mr. DICKINSON of Iowa. Submit the figure to us, and it recommends that there shall be reapportionment on that basis. It is a commitment of this House to 435 Members. I have talked with the gentleman from New York [Mr. SNELL], who has told me time and time again that one of the things that he was most anxious about in this whole fight is the fact that he wants only 435 Members in the House. This gives him that. It gives a recommendation and the commitment of the Members of this House along that line. I say to you that I do not believe that we are making any idle gesture here, but we are preserving to the House the prerogatives that we ought to preserve, and we are not delegating any power to somebody down at the other end of the Avenue to say that Massachusetts shall only have so many Representatives in the new Congress, and that New York and the rest of them shall only have so many in the following Congress.

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

Several Members rose.

The CHAIRMAN. The Chair will recognize some one in opposition to the amendment.

Mr. JACOBSTEIN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from New York.

Mr. JACOBSTEIN. Mr. Chairman and members of the committee, so far as the amendment offered by the gentleman from Iowa [Mr. DICKINSON] is concerned, as affecting the very first section of this bill, it is absolutely meaningless. It simply calls upon the Secretary of Commerce to give us some statistics. They gave us those statistics in 1920, and we did nothing with them. His substitute is absolutely valueless to those of us who desire reapportionment. There is nothing in his proposal to assure us of reapportionment.

Mr. DICKINSON of Iowa. Does the gentleman contend that you can bind future Congresses? They can reapportion themselves and increase the House to 460 or any other number, and the gentleman admitted that in his speech yesterday.

Mr. JACOBSTEIN. I say that the passage of the Fenn bill before us does something which your amendment does not do. If we enact the Fenn bill, reapportionment statistics based on the 1930 census are then submitted, which you yourself have called for, but with this difference: If the Seventy-first Congress is derelict and does not do its duty, then we will automatically get reapportionment, whether that Congress acts or not. Your innocuous substitute simply calls for statistical data which we would get, anyway. I hope, therefore, that this House will vote down the Dickinson substitute, which, if enacted, would destroy the vital parts and vital principle of the Fenn bill, namely, the automatic feature.

I would like to explain to the House the fundamental difference in the two methods most seriously considered for reapportionment, namely, the one provided for in the bill, the method of major fractions, and the one which has been suggested as a substitute, namely, the method of equal proportions.

A preliminary statement is in order.

The method of major fractions was used in 1840, was used in 1910, and in the tables reported in 1920. The method of equal proportions has never been used or seriously considered at any time.

Mr. FENN. Does not every Member of this House hold his seat by this method of major fractions?

Mr. JACOBSTEIN. Yes; that is true.

The method of major fractions proceeds on the assumption that every individual in the United States should have the same weight so far as representation in Congress is concerned, regardless of the size of the population of the State in which he happens to live. Under the method of major fractions, a person in Nevada has the same weight as a person in New York, no more, no less.

As against this, the method of equal proportions would attach a weight and importance to the individual depending upon the size of the State. An individual living in Nevada, with approximately 75,000 people, would have greater weight than an individual living in New York, with 11,000,000.

Let me illustrate how these two methods would operate. Suppose Congress should have wanted to make the House 436 instead of 435 in 1910. Which State would have gotten the four hundred and thirty-sixth district? According to major fractions, that State would have gotten the four hundred and thirty-sixth district which had the highest absolute number of unrepresented people. That is to say, people in excess of the districts already apportioned in the various States. Under equal proportions, the four hundred and thirty-sixth district would go to that State in which the unrepresented portion bears the highest ratio to the total population of the State.

So, for instance, if Representatives are to be apportioned only for every 250,000, a State with a population of 370,000, or one Representative and a remainder of 120,000, compared with a State of 4,122,000, entitling it to 16 Representatives and 122,000 remainder, which State should get the additional Representative—the State with 120,000 excess, or the State with 122,000 excess?

The proponents of the major fractions method say the State with 122,000 excess, because they say that representation in Congress should be based on the absolute number; whereas the equal proportions proponents say the State with the 120,000 excess should get the extra Representative, because 120,000 is a higher percentage of a population of 370,000 than is 122,000 of a population of 4,122,000.

Under major fractions, the traditional method, as against equal proportions, the untried method, it always happens, and always must happen, that any State that has a major fraction—that is to say, 50 per cent or more of the population which each district is supposed to have—gets the Representative. A State having less than one-half never gets the Representative. A State having more than one-half always gets it. Under equal

proportions the excess might be less than one-half the size of the average district and still get the additional Representative.

Now, having explained the difference in the two methods, you will readily understand why it is that the smaller States favor the method of equal proportions and the larger States favor major fractions. In the small State each individual has a greater weight when compared with the population of his State than he does in the larger State. Representative THURSTON living in Iowa and Representative BRIGHAM living in Vermont have a greater weight under equal proportions than I have living in New York State with a population of 10,000,000. I am only one of 10,000,000, while Representative THURSTON, say, is one of 350,000. The practical result in the use of the two methods is illustrated by the chart that I now present to you. It will be seen from this table that if you use the method of equal proportions, on the estimated population of 1920, the smaller States would secure three seats in the House, which by the method of major fractions would have gone to the larger States. The three small States which would have gained are Vermont, Rhode Island, and New Mexico, and the three large States that would have lost are North Carolina, Virginia, and New York.

Mr. BEEDY. For the information of the House, the gentleman stated his State loses by both methods, but less by the method of equal proportions.

Mr. JACOBSTEIN. Yes; that is true. Of course, we can not say with certainty what the results will be until the 1930 census has been taken. It is true that under the method of major fractions New York is likely to lose one seat, and possibly two under equal proportions.

Mr. BEEDY. Is it not true, under the statistics already submitted by the Census Bureau respecting the census of 1930, that by major fractions my State loses one and New York State loses two? In other words, that method favors the small State and is adverse to the large State?

Mr. JACOBSTEIN. We should not be unduly frightened by these estimates for 1930. No one knows what the population will be in 1930. I agree with the gentleman from Mississippi [Mr. RANKIN] that the estimates of 1930 are based on the estimates of 1920, which were faulty, it is claimed. We do not know what it will actually be in 1930, but in certain cases the big States like New York will lose two, and under the other method it would lose one.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. JACOBSTEIN. May I have an additional five minutes?

The CHAIRMAN. The gentleman from New York asks leave to proceed for five minutes longer. Is there objection?

Mr. KETCHAM. Reserving the right to object, Mr. Chairman—I shall not object, but I want to take this minute to announce that, after this, all further extensions will be objected to which are calculated to filibuster against the bill. Of course, the gentleman from New York is not in this filibustering class. He favors the bill.

Mr. EDWARDS. You can object right now. If that is to be the policy, we will object right now.

Mr. KETCHAM. If the gentleman will permit, I want to make just a brief statement.

Mr. EDWARDS. I object to the statement, Mr. Chairman; it is out of order.

Mr. KETCHAM. Then I will withdraw my objection.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. JACOBSTEIN. I will take five minutes to explain what is meant by these two methods. Under the major-fraction method every individual in the United States, as I said, whether he lives in Nevada, or in Vermont, or in New Hampshire, or New York, has the same weight. No more importance is attached to an inhabitant of New York than to an inhabitant of Nevada or Vermont or New Hampshire under the major-fraction method. That will not be contradicted by anyone who knows the facts about these two methods. But under the method of equal proportions an individual living in Vermont or New Hampshire or Nevada has more weight than a man living in New York, because the man living in Nevada or Vermont or New Hampshire has a higher ratio than you, Mr. BLACK of New York, living in New York.

You are one of eleven million, while an inhabitant of Nevada is one of a hundred thousand. Therefore if a man lives in Nevada he will have more representation than if he lived in New York, and that was never intended by the fathers of this Republic. The framers of the Constitution definitely intended that every individual, regardless of where he lived, should have the same weight in representation in this Congress.

The difference between the two methods is simple. One provides for an apportionment for membership in this House on the basis of population absolutely and the other on the basis of a ratio between the individual in that State to the whole population of the State.

In 1930, on the estimated population given out by the Census Bureau, a shift would have taken place as between the smaller and the larger States.

The contests, therefore, as to methods is one involving a shift of approximately three seats in the House as between the smaller and the larger States.

My reading of the debates from 1790 down to the present time has led me to the conclusion that major fractions is the method intended by the makers of the Constitution. I say this not because I come from a larger State, because my State is going to lose under any reapportionment. It will probably lose one under major fractions, and maybe two under equal proportions. No one can tell this until the absolute figures are secured.

I believe the Constitution intended that we should apportion seats in the House so that each State will receive representation in the Congress as nearly as possible according to the population of these respective States. If we adhere to this principle, then major fractions is the method that carries out most effectively that principle. I do not believe that it was ever intended to assign seats in the House on the basis of the ratio which the individual bears to the total population of his State.

However, the question of method is secondary. The question of definitely assuring reapportionment in 1930 is paramount. I think you will find that a number of these gentlemen who are advocating the method of equal proportions will not vote for the bill, whereas I am sure that there are others like myself in the House who would vote for equal proportions if that would save the bill. But I think the method of major fractions is the fairer of the two and the one that conforms to the principle laid down in the Constitution.

But there is another reason for preferring the method of major fractions in this bill. Since we are assigning a ministerial function to the Secretary of Commerce, we ought to be careful not to assign to him the application of a method which has never hitherto been used. For ministerial purposes the method of major fractions should be used, that being the better known and the one that has been tried. When it comes to the merits of the question, that can be decided by the Congress in 1930, which will have the power to reapportion.

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

Mr. JACOBSTEIN. Yes; with pleasure.

Mr. HUDSON. Have we never apportioned on the equal proportion basis?

Mr. JACOBSTEIN. Never. No one will contradict that. Major fractions were used in 1840 and in 1910 and recommended in 1920.

Mr. REED of New York. Is it not a fact that Daniel Webster was a member of a committee to investigate the question of major fractions, and that he made an exhaustive report showing that the use of major fractions was the most fair?

Mr. JACOBSTEIN. He did; but he did not actually develop the method of major fractions. The method he suggested came to be known as the Vinton method, which broke down in certain situations. That is what led to the method of major fractions, developed in its present form by Prof. Walter F. Willcox, of Cornell University.

Mr. YATES. Will the gentleman give us an illustration?

Mr. JACOBSTEIN. Yes; I will give you an illustration. We have now a membership of 435. Suppose we fixed it at 436. Who would get the four hundred and thirty-sixth Member? Who would get the additional Member?

Mr. EDWARDS. The State of New York. [Laughter.]

Mr. JACOBSTEIN. I think you will agree with me that that State ought to get the four hundred and thirty-sixth Member which has the largest block of unrepresented votes. A State that has 110,000 ought to get the seat rather than the State having 100,000. But under the method of equal proportions the State having 100,000 might get the additional vote instead of the State having 110,000.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. JACOBSTEIN. Mr. Chairman, I ask permission to proceed for another five minutes, because this method is going to be discussed and I shall not talk upon it again.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for another five minutes. Is there objection?

There was no objection.

Mr. BEEDY. If the gentleman will permit——

Mr. JACOBSTEIN. Allow me to proceed for two minutes and then I will yield to the gentleman.

Mr. BEEDY. But the gentleman has unintentionally misled the House. If the Hoch amendment were adopted the gentleman's statement would be correct, namely, that it would be the largest unrepresented block of American voters, but now it is the people in the State.

Mr. JACOBSTEIN. I do not know what the Hoch amendment is. I shall be glad to talk about it later, but let me come back to my illustration. I say that if you want a House of 436 you naturally and fairly should give the four hundred and thirty-sixth Member to the State that has the largest excess, but you would not necessarily do that under equal proportions; you would give it to the State whose excess is the highest ratio to the whole population of that State. For 100,000 in a State of 300,000 is a higher ratio than 110,000 in a State of 11,000,000. Is not that so? It is clear, therefore, that under equal proportions the next seat would be assigned to the State, not that has the largest fraction but has the largest ratio of excess, and that is manifestly unfair.

Mr. PEERY. Will the gentleman yield?

Mr. JACOBSTEIN. Yes.

Mr. PEERY. Did not the majority of the expert mathematicians who appeared before the committee favor the method of equal proportions as being the best method?

Mr. JACOBSTEIN. It is true that there are some mathematicians in the United States who favor the method of equal proportions.

Mr. PEERY. Did not the majority of the expert mathematicians who appeared before the committee favor the method of equal proportions?

Mr. JACOBSTEIN. I think it is a fair statement to say that many of the mathematical scholars, who for one reason or another have advocated the equal proportions method on the merits of the method, would favor the method of major fractions in the assignment of the ministerial function. Congress itself has used the major-fraction method. We are sitting in this House to-day by virtue of the use of this method. Is it not logical, therefore, in a bill which directs the Secretary of Commerce to submit to us a table of reapportionment that he be directed to use the method which we have used?

Mr. PEERY. Were not two of those expert mathematicians from Yale University?

Mr. JACOBSTEIN. From Harvard. As I have said, I am not here arguing the relative merits of the two methods, but I do say that in the assignment of a ministerial function we should assign a function which everybody knows, a method which has been used in the past, and a method which has never been found wanting. Now, the method of equal proportions is an untried method, and its proponents will admit it.

Mr. MOORE of Virginia. Will the gentleman yield?

Mr. JACOBSTEIN. Yes.

Mr. MOORE of Virginia. Suppose the designation of a method were stricken out of this substitute and the substitute left as committing Congress, so far as this House can commit it, to a membership of 435, what would the gentleman say about that?

Mr. JACOBSTEIN. I will say to the gentleman from Virginia that if we asked the Secretary of Commerce to give us figures on reapportionment, he would say, "Under what method do you want me to allocate these 435 Members?"

Mr. MOORE of Virginia. The Secretary of Commerce could allocate them under both methods and then leave it to the Congress.

Mr. JACOBSTEIN. There are a half dozen methods. Therefore, I say to the gentleman from Virginia that as we want to make sure of reapportionment in 1930, it is wise to tell the Secretary of Commerce explicitly what to do; we give him a definite formula, and that formula includes a definite method, without any discretion left to the Secretary of Commerce.

A document which throws a great deal of light on this intricate and important question is one prepared and submitted to the Members of Congress by Prof. Walter F. Willcox, of Cornell University. Professor Willcox was chief statistician for the Bureau of the Census, in charge of the division of methods and results, at the time of the taking of the census of 1900, and as such prepared the apportionment tables used by Congress at that time. In 1910, while teaching at Cornell University, he submitted tables embodying his improvements in the major-fraction method, which were accepted by the Census Committee and by Congress.

The letter was addressed originally to the chairman of the Census Committee and follows herewith:

Hon. E. HART FENN,

Chairman Committee on the Census,

House of Representatives, Washington, D. C.

DEAR MR. FENN: As you know, I prepared the tables on which the apportionments of 1900 and 1910 were based and have appeared before your committee more than once while it was considering the forerunners of the bill just reported. I am interested especially in the method of apportionment and have urged your committee to prescribe in its bill the method last used by Congress rather than a novel and untried one.

While attending the hearings of 1927 and 1928 and listening last May from the gallery to the debate in the House of Representatives I formed the impression that some committee members and Members of the House are still puzzled by the complicated mathematical questions and arguments about apportionment. I am writing this letter to you, therefore, in a last-minute effort to make the different methods somewhat clearer, and am venturing to mail a copy to each Member of Congress. I do not, of course, touch on the main question of the desirable size of the House, but deal almost entirely with questions of method.

Your committee has had to choose between the method used in 1911, which then gave complete satisfaction to Congress and the country, and a novel, untried method. In the present bill, merely providing for a future apportionment by the Secretary of Commerce under specified conditions, it seems to me wise to prescribe the method used in the most recent congressional apportionment; every student of the subject with whom I have talked recently shares that opinion. If there be a better method, as some claim, let it be considered by your committee, and perhaps by Congress, when the figures of the next census are published and the ways in which the alternative methods deal with the specific situation can be compared. I do not think they can be compared intelligently until that evidence is available.

The essential differences, not merely between these two methods, but between four methods which perhaps deserve attention, may be brought out by an example. In the following table the population of each State in 1920 has been divided by 245,000, assuming for a moment that this round number had been chosen as the average population of a congressional district. The results of the division are stated for convenience as whole numbers and decimal fractions. The differences between the methods turn essentially upon differences in the meaning given to these fractions.

Table showing results of dividing the population of each State in 1920 by 245,000

State	Population in 1920	Result of division
New York	10,380,589	42.37
Pennsylvania	8,720,017	35.59
Illinois	6,485,280	26.47
Ohio	5,759,394	23.51
Texas	4,663,228	19.03
Massachusetts	3,852,356	15.72
Michigan	3,668,412	14.97
California	3,426,031	13.98
Missouri	3,404,055	13.89
New Jersey	3,155,900	12.88
Indiana	2,930,390	11.96
Georgia	2,895,832	11.82
Wisconsin	2,631,305	10.74
North Carolina	2,559,123	10.45
Kentucky	2,416,630	9.86
Iowa	2,404,021	9.81
Minnesota	2,385,656	9.74
Alabama	2,348,174	9.58
Tennessee	2,337,885	9.54
Virginia	2,309,187	9.43
Oklahoma	2,028,283	8.28
Louisiana	1,798,509	7.34
Mississippi	1,790,618	7.31
Kansas	1,769,257	7.22
Arkansas	1,752,204	7.15
South Carolina	1,683,724	6.87
West Virginia	1,463,701	5.97
Maryland	1,449,661	5.92
Connecticut	1,380,631	5.64
Washington	1,354,596	5.53
Nebraska	1,296,372	5.29
Florida	968,470	3.95
Colorado	939,161	3.83
Oregon	783,389	3.20
Maine	768,014	3.13
North Dakota	643,953	2.63
South Dakota	631,239	2.58
Rhode Island	604,397	2.47
Montana	541,511	2.21
Utah	448,388	1.83
New Hampshire	443,083	1.81
Idaho	430,442	1.76
New Mexico	353,428	1.44
Vermont	352,428	1.44
Arizona	309,495	1.26
Delaware	223,003	.91
Wyoming	193,487	.79
Nevada	75,820	.31
Sum of the whole numbers		404.00
Sum of the whole numbers and decimals		429.41

1. When Congress first attacked the problem in 1790 it decided after long debate involving not merely House and Senate but also all four members of the Cabinet and President Washington himself that fractional remainders, no matter how large, should be disregarded. That method, the method of rejected fractions, was regularly used until and

including 1830. By it the preceding table would provide for apportioning a House of 404 Members.

2. In the lengthy debates over apportionment a century ago the question was referred to a special committee of the Senate, of which Daniel Webster was chairman. The report of that committee argued that a fraction larger than one-half entitled a State under the Constitution to an additional Representative. This view was rejected at the time but it prevailed in 1840 and has dominated congressional action ever since. The Vinton method introduced in 1850 and followed for half a century was thought at first to be merely another way of applying Webster's new principle. When this was shown to be an error Congress returned, in 1910, to the method of 1840.

In the preceding table, ignoring the last three States, there are 27 fractions larger than one-half, and by adding that number to the 404 Representatives apportioned for whole numbers the table under this Webster method or major-fraction method would provide for a House of 431 Members.

3. The advocates of the novel method of equal proportions hold in substance, although they do not state it in this way, that a fraction larger than the geometric mean between any two consecutive numbers entitles a State to an additional Representative.

The geometric mean is found by multiplying the two numbers of Representatives under consideration together and finding the square root of the product. I do not need to state the intricate arguments by which this conclusion is defended; for present purposes we may consider only the results. The preceding table shows in the cases of Rhode Island, New Mexico, and Vermont minor fractions which are larger than the geometric means between one and two or two and three, and accordingly by this method the preceding table would provide for apportioning a House of 434 Members.

4. Another novel method whereby an additional Representative is allotted for every fraction, no matter how small, completes the list. The preceding table by this method would give a House of 449 Members.

My contribution to the analysis has been to show how any one of these four methods can be employed to yield a House of any desired size. Thus, if your committee wished to apportion 435 Members under the population figures of 1920 by any one of these four methods the divisors yielding that result would be:

Method	Divisor	Result (Members)
1	230,000	435
2	242,000	435
3	244,523	435
4	256,700	435

So far as their results are concerned, these methods differ from one another mainly in the distribution of Members between the large and the small States. Out of 435 Members the five States each having a population of over 4,000,000 by method No. 1 receive 155 Members and by method No. 4 only 143. On the other hand, the 14 States each having a population of between 300,000 and 1,000,000 by method No. 1 receive 28 Members and by method No. 4 receive 39 Members. The results of the other two methods lie between these two extremes.

May I add a paragraph of a more general sort? In the debate of last May objections of two kinds were raised to the bill. On the one hand, it was said to be a meaningless gesture, because no Congress could bind its successor; on the other hand, it was said to hand over to an administrative officer a congressional duty most important and delicate. These objections might be said to neutralize each other, for both can not be true; in my opinion neither is.

Under the Constitution Congress is expected to adjust after each census the distribution of Representatives among the States to the population shifts of the preceding decade. It has discretionary power also to change the number of Representatives. These two functions are now entangled; the object of the present bill is to disentangle them. It provides that if or when Congress can not agree to change the number of Representatives, then and only then the existing number shall be reapportioned among the States by a member of the Cabinet. In doing it he is to act under instructions from Congress so specific as to deprive him of all discretion and make his act purely ministerial.

I trust that the importance of the present question will be held to justify me in appealing in this way through you to Congress and the public on behalf of the pending bill.

Yours respectfully,

WALTER F. WILLCOX.

CORNELL UNIVERSITY,
Ithaca, N. Y., January 7, 1929.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. RUTHERFORD. Mr. Chairman, I move to strike out the last word of the substitute, and I ask unanimous consent to revise and extend my remarks.

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

There was no objection.

Mr. RUTHERFORD. Mr. Chairman, the Committee on the Census can not be charged with derelict of duty, as four bills have been favorably reported since the census of 1920. It is needless to call to the attention of the House why none of the former bills have been enacted into law.

The present membership of this committee has struggled with the existing situation but did not arrive at a solution that was satisfactory to the full membership.

Since I became a member of this committee no effort has been made to reapportion under the census of 1920, as it is generally conceded that the enumeration was improperly made, largely on account of the lack of sufficient funds and the time of the year in which the census was taken.

It is generally known that at the time the census was taken there had been an abnormal shift of population, growing out of the exigencies of the World War. I know personally that a correct enumeration of the farm population of my section was not made.

The Committee on the Census reported out a bill authorizing a correct census to be made in the spring of 1930, and this bill is now pending before the Senate. While my State will not be affected by the passage of the present bill, it can not be charged that my vote is cast for selfish reasons.

I have listened with much interest to the argument on both sides of this question, and I think it is very unfortunate that the vote of any Member should be questioned in arriving at an honest conclusion. While I do not believe the Constitution is mandatory that we should have a reapportionment every 10 years, I stand ready to vote for a reapportionment bill after the proper census is taken in 1930.

If I am not mistaken, this is the first time an attempt has been made to reapportion the House in advance of the taking of the census, and I am not going to cast my vote for a precedent of this kind. [Applause.]

While I have confidence in many of the departments of this Government, I think the Congress has gone far afield in surrendering its constitutional rights and prerogatives, and the time has come for us to call a halt.

I believe that we should wait until after the Census Bureau makes its report to the Congress and then pass a reapportionment bill specifically allotting to each State the number of Representatives, as shown by the enumeration. It is not a question that should be settled along political lines. I am frank to state that I am not afraid to vote for a larger membership, as I believe a large House is more democratic.

While the method of major fractions was used in taking the census in 1920, Doctor Hill, of the Census Bureau, recommended the method of equal proportions, which he contended was more favorable to the smaller States. I feel safe in saying there is not a member of the committee who could satisfactorily explain these formulas.

My prediction is that if this bill passes it will be a long time before a successful effort is made to change its provisions. It could not become operative before 1932 and two sessions of the Congress will be convened between the time the census is actually taken and before the bill becomes operative; therefore, the States that were estimated to gain one or more Representatives have nothing to gain by abdicating our rights.

I would like to warn the Members as to the serious consequences that may follow the passage of this bill. We are magnifying its importance by thinking that the average voter is clamoring for its passage. The guide that we should follow in legislation of this kind should be our own conscience. Personally I would rather have no reapportionment than to establish in this House what I consider a most dangerous precedent. [Applause.]

Mr. LOZIER, Mr. BEGG, and Mr. HOCH rose.

The CHAIRMAN. For what purpose does the gentleman from Missouri rise?

Mr. LOZIER. Mr. Chairman, I am a member of the committee and I rise in support of the substitute.

The CHAIRMAN. The pending motion is to strike out the last word.

Mr. LOZIER. Then I move to strike out the last two words.

The CHAIRMAN. That would be an amendment in the second degree and can not be done. The Chair will recognize some one in opposition to the pro forma amendment, preferably a member of the committee and preferably one on the Republican side; otherwise the Chair will recognize the gentleman from Missouri.

Mr. CONNERY. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. BEGG. Mr. Chairman, I can not qualify under one of your requirements. I am a Republican, but I am not on the committee.

The CHAIRMAN. The Chair understands that, and until the members of the committee have had an opportunity to be recognized the Chair thinks preference should be given to the members of the committee.

Mr. LOZIER. Mr. Chairman, I rise in opposition to some provisions of the pending substitute.

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. LOZIER. Mr. Chairman, on June 4, 1928, when a bill similar to this one was being considered in the House I expressed in detail my conviction that the membership of the House should be increased if we are to have representative government in the true sense of the term. I think I demonstrated beyond a doubt that the House is not now too large or unwieldy and that the magnitude of our governmental activities made inevitable an increase from time to time in the membership of this House, which, after all, is the one branch of our Congress that must be relied on to interpret, speak, and work the will of the masses. I have given additional thought to this subject since I made the remarks to which I have referred, and I am more than ever persuaded that the views I then expressed on reapportionment are bottomed on reason, common sense, and sound public policy. I am convinced the pending bill is vicious and should not be enacted into law. I favor the substitute offered by the gentleman from Iowa [Mr. DICKINSON], with a modification that will be suggested.

There are at least four distinct formulas for apportioning representation among the several States according to population. The first is what is known as the rejected fraction formula. This plan was advocated by Thomas Jefferson, and President Washington vetoed the first census bill because it recognized the policy or principle of major fractions. The rejected fraction formula was used in all apportionments under every census down to and including the census of 1830. Then we have what is known as the minimum range formula, which has never been used. In 1843 the major fraction formula was used. Between 1850 and 1900, both dates inclusive, what was known as the Vinton method prevailed, and in 1910 the major fraction formula was again used, but some of the calculations were arbitrarily made and some major fractions ignored. Another formula is what is known as the equal proportions. It has never been used at any time in our national history.

Statisticians and economists are not agreed as to which is the better, most just, and most scientific. It is generally conceded that the minimum range formula is most favorable to the small States, the major fraction plan more favorable to the large States, while the equal proportions formula reduces to the lowest minimum these objectionable features of the other two plans. In other words, it is claimed by its proponents that the equal proportions formula is fair to the small States without being unfair to the large States.

Now, the pending bill seeks to perpetuate the major fraction formula for all time.

I insist, gentlemen, it is folly for this House or the Congress to commit itself definitely, positively, and permanently to the major-fraction formula, or any other formula. The economists and the statisticians in the United States are not agreed as to which of these four plans is best and fairest to all States. The great majority of them favor the equal-proportions formula as the most scientific and just method of apportioning representation, but after listening to the learned statisticians and economists for several years I am rather of the opinion that the equal-proportion formula is the most scientific and equitable plan.

We ought not to commit ourselves to any definite formula or plan in view of the great diversity of opinion as to merit of the several systems. May I call your attention to the fact that from 1850 to 1900, both dates inclusive, we were following what is known as the Vinton method? It was used for many years before its weaknesses were discovered. When Congress attempted in 1870 to apply this method what is known as the Alabama paradox developed. We found that if the House was to consist of 299 Members, Alabama would be given 8 Representatives; but if you add 1 to the total membership of the House, making the total membership 300, Alabama would have 1 less, or only 7 Representatives. This ridiculous situation demonstrated the unreliability of the Vinton method, and, in fact, the folly of adopting for all time any particular formula. But sound judgment and common sense dictate that Congress be in a position to use any plan that reason suggests when Congress faces this problem after each decennial census.

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

Mr. LOZIER. Not just now.

Then again, in 1900, we had what was known as the Maine paradox and the Colorado paradox. When Congress attempted to apply the Vinton method in 1900, it found that with a membership of 383 Maine would have 4 Representatives, with 384 Members Maine would have 4, with 385 Members of the House Maine would have 4, but with 386 Members Maine would only have 3. Then if you jumped to 387 or 388 Maine would have 4, but if you increased the membership to 389 Maine's quota would drop down again to 3, and with 390 Maine would still have only 3, and then if you brought the membership up to 391 Maine would be entitled to 4.

In 1900 the Vinton method when applied to Colorado worked just as paradoxically, with a House membership of 356 or 358 Colorado would have been entitled to 3 Representatives, while with a membership of 357 Colorado's quota would be reduced to 2.

So when you write into the permanent law of the land the major-fraction formula, or any other hard-and-fast plan, you are making it possible, yes probable for injustice and abuses to be perpetrated in apportionments. All of these formulas are so elastic and uncertain in their operation that no definite or absolutely accurate or satisfactory result can under all circumstances be expected.

Mr. SNELL. Will the gentleman yield now?

Mr. LOZIER. I yield to the gentleman.

Mr. SNELL. I do not know anything about these paradoxes, but would the gentleman vote for the bill if we struck out the provision providing that the method shall be by the major fraction formula?

Mr. LOZIER. Oh, no. This is not an apportionment bill. It is merely an alibi framed by the Republican majority to excuse its failure to pass an apportionment bill in 1920 or 1921. In the limited time allowed for debate I can not state the many reasons which influence me to withhold my approval from this bill. I have heretofore at very great length set forth the reasons which justify me in opposing this measure and in an extension of remarks I may restate these reasons and make some other observations in relation to the pending bill.

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

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

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

There was no objection.

Mr. LOZIER. Gentlemen, quite a number of States now have fewer Representatives than in former years, as the following statement will illustrate:

STATES THAT HAVE FEWER REPRESENTATIVES NOW THAN FORMERLY

Connecticut, under the 1790, 1800, and 1810 apportionments, had 7 Representatives; and under the 1820 and 1830 apportionments, it had 6. It now has 5.

Delaware, under the 1810 apportionment, had 2 Representatives. It now has 1.

Kentucky, under the 1820 apportionment, had 12 Representatives, and under the 1830 apportionment it had 13 Representatives. It now has 11, and under the pending bill will be reduced to 9.

Maine had 7 Representatives under the 1810 and 1820 apportionments, 8 under the 1830 apportionment, 7 under 1840 apportionment, 6 under 1850 apportionment, 5 under 1860 and 1870 apportionments. It now has 4, and the pending bill will deprive it of 1 of these.

Maryland, under the 1800, 1810, and 1820 apportionments, had 9 Representatives, and 8 Representatives under the 1830 apportionment. It now has 6.

Massachusetts had 17 Representatives under the 1800 apportionment. It now has 16, and under the pending bill will lose 1 of these.

New Hampshire had 3 Representatives when our Constitution was adopted. It had 6 under the apportionments of 1810 and 1820. It now has 2.

North Carolina had 12 Representatives under the 1800 apportionment and 13 Representatives under the apportionments of 1810, 1820, and 1830. It now has 10.

South Carolina had 8 Representatives under the 1800 apportionment and 9 Representatives under the apportionments of 1810, 1820, and 1830. It now has 7.

Tennessee had 13 Representatives under the 1830 apportionment, 11 under the 1840 apportionment, and only 10 now.

Vermont had 4 Representatives in 1800, 6 in 1810, 5 in 1820, 5 in 1830, 4 in 1840, 3 from 1850 to 1880, and it now has 2, what it had in 1790.

Virginia has now the same number of Representatives it had when our Constitution was adopted, 10. In 1790 it had 19, in 1800 it had 22, in 1810 it had 23, in 1820 it had 22, in 1830 it had 21, in 1840 it had 15, in 1850 it had 13, and in 1860 it had 11.

While the fact that a State may get a decreased representation under a reapportionment is no argument against an apportionment that is otherwise just; still, from a historical standpoint, the following statement is interesting and instructive:

STATES THAT HAVE LOST REPRESENTATIVES

Alabama lost 1 in 1860.
Connecticut lost 1 in 1820 and 2 in 1840.
Georgia lost 1 in 1790, 1 in 1840, and 1 in 1860.
Kentucky lost 3 in 1840 and 1 in 1860.
Maryland lost 1 in 1830, 2 in 1840, and 1 in 1860.
Delaware lost 1 in 1820.
Maine lost 1 in 1840, 1 in 1850, 1 in 1860, and 1 in 1880.
Massachusetts lost 4 in 1810, 1 in 1830, 2 in 1840, and 1 in 1860.
New Hampshire lost 1 in 1830, 1 in 1840, 1 in 1850, and 1 in 1880.
New Jersey lost 1 in 1840.
New York lost 6 in 1840, 1 in 1850, and 2 in 1860.
North Carolina lost 4 in 1840, 1 in 1850, and 1 in 1860.
Ohio lost 2 in 1860.
Pennsylvania lost 4 in 1840 and 1 in 1860.
South Carolina lost 2 in 1840, 1 in 1850, and 2 in 1860.
Tennessee lost 2 in 1840 and 2 in 1860.
Vermont lost 1 in 1820, 1 in 1840, 1 in 1850, and 1 in 1880.
Virginia lost 1 in 1820, 1 in 1830, 6 in 1840, 2 in 1850, 2 in 1860, and 2 in 1870.

I want to say I am opposed to a formula which limits the size of this House to a membership of 435. What charm or what magic is there in the number 435? Why is that number sacred? Why should 435 be selected as the exact membership of the House?

In 1789 we had one Congressman for every 30,000 population, and this provision was written into the Constitution of the United States, that the membership of the House should be at least one for every 30,000 population. As the population increased and our Government grew in territorial extent, wealth, population, and business the number of Representatives was increased and properly so. This was contemplated and provided for by our constitutional fathers. They did not put the American people in a strait-jacket as this bill seeks to do. They knew that with an expanding nation a larger Congress would be necessary from time to time.

I have prepared a table showing the basis on which apportionments were made since 1789, the membership of the House and population for each decade, and the plan used to apportion representation. It conclusively demonstrates that the House is not too large and that if we are to have popular or representative government it will be necessary to further increase the size of the House from time to time.

Basis of apportioning representation, 1789–1910

	One Representative for each—	Membership	Population
1789 (constitutional provision)	30,000	65	
1790 (rejected fractions)	33,000	105	3,929,214
1800 (rejected fractions)	33,000	141	5,308,483
1810 (rejected fractions)	35,000	181	7,239,881
1820 (rejected fractions)	40,000	213	9,638,453
1830 (rejected fractions)	47,700	240	12,866,020
1840 (major fractions)	70,680	233	17,069,453
1850 (Vinton method)	93,423	234	23,191,876
1860 (Vinton method)	127,381	243	31,443,321
1870 (Vinton method)	131,425	293	38,558,371
1880 (Vinton method)	151,911	325	50,155,783
1890 (Vinton method)	173,901	356	62,947,714
1900 (Vinton method)	194,182	386	75,994,575
1910 (major fractions)	211,877	433	91,972,266
1920			105,710,620
If apportionment had been made by major fractions formula, for a membership of 435	241,663		
If apportioned by rejected fractions formula	230,000		
If apportioned by Vinton method	241,864		
If apportioned by equal proportions formula	244,523		
1930	(1)	(1)	(1)

[1] According to estimate of Bureau of Census Jan. 19, 1927, p. 41 of hearings, population was estimated at 123,288,000, which, under major fractions formula would b 1 Representative for each 283,420 population for a House of 435, and according to estimate, p. 11 of report, the population is fixed at 122,537,000, which would make a basis of 281,694.

I direct your attention to the following table showing members of parliament in certain foreign countries, in relation to population, area, and estimated wealth, compared with the same figures for the United States:

Country	Membership of—		Population	Area (square miles)	Estimated national wealth	Ratio represented by each member of lower house in relation to total		
	Higher house	Lower house				Population	Area	National wealth
Great Britain and Northern Ireland	730	515	42,919,710	89,041	$120,000,000,000	69,788	145	$195,121,951
Canada	96	245	9,364,200	3,729,665	22,195,000,000	38,221	15,214	90,519,837
France	314	580	39,209,518	212,659	60,000,000,000	67,603	367	103,448,276
Germany	68	493	62,539,098	181,257	40,000,000,000	126,854	368	81,135,903
Italy	387	560	42,115,606	119,624	35,000,000,000	75,206	214	62,500,000
Japan	409	464	61,081,954	260,707	22,500,000,000	131,642	562	48,491,379
United States	96	435	122,537,000	3,627,557	355,000,000,000	281,649	8,339	816,091,954

The foregoing data in reference to our present national wealth and the probable population of the United States in 1930 are taken from official sources.

I call attention to the fact that we have a smaller representation in the House than any other similar representative body in the world. Great Britain has a membership of 515 in the House of Commons and 730 in the upper house.

Mr. CELLER. Will the gentleman yield? Does the gentleman know that the members of the House of Commons are sprawled all over the hall, and in the galleries—that they have not sufficient space?

Mr. LOZIER. That is beside the question. Great Britain has 42,000,000 people, and the House of Commons has 515 members. Her national wealth is only about one hundred and twenty billions; the national wealth of the United States is $355,000,000,000, and we have only 435 Representatives. The membership of the Chamber of Deputies in France is 580. The German Reichstag has a membership of 493. Italy's popular Assembly has a membership of 560, and the United States only 435. Considering our national wealth, population, area, and stupendous resources a House of 500 or even 600 would not be too large or inefficient.

I have prepared the following statement, which conclusively demonstrates that when area, population, and national wealth are considered, the American people have fewer Representatives in Congress than any other first-class power; and there is more national wealth and probably more business transacted in the United States than in all of these other six nations combined. The statement follows:

(a) Great Britain and Northern Ireland, with a population of 42 million and a national wealth of 120 billion, have 1,245 lawmakers.

(b) France, with a population of 39 million and a national wealth of 60 billion, has 894 lawmakers.

(c) Germany, with 62 million population and 40 billion national wealth, has 561 lawmakers.

(d) Italy, with 42 million population and 35 billion national wealth, has 947 lawmakers.

(e) Japan, with 61 million population and 22½ billion national wealth, has 873 lawmakers.

(f) While the United States, with 123 million population and 355 billion national wealth, has only 531 lawmakers.

There is nothing in the argument that the House is too large now. We know that this House does function. It functions more perfectly than any legislative body in the world. It functions more efficiently than the Senate with only 96 Members. As a matter of fact the House can and does work its will quickly whenever a majority makes up its mind what it wants to do.

The reactionary forces in the United States would like to see the membership in the House reduced one-half or even more because they realize the fewer the Members the easier it is to control legislation. They do not want popular government in

the true sense of the term. They are always looking forward to the time when bureaucratic government will supplant representative government, and when Congress will be composed of only a few Members, who would supinely register the will of the President, bureau chiefs, and special privilege classes. They would make Congress a close corporation controlled by the rich, high born, special privilege, and influential classes.

On the contrary, I would have Congress a great popular forum with a membership sufficiently large to give every great vocational group ample representation, to the end that outstanding national problems could be debated and deliberately considered, and wise national policies formulated by men fresh from the districts they represent and well informed as to the interests of their constituents.

The fewer Members of Congress the greater the power of committees to strangle and pigeonhole legislation. With a relatively small House of Representatives the power of a few blocs or groups to control legislation is increased. Practically all benign, progressive, and constructive legislation in the last 50 years has originated in the House of Representatives, and has been sponsored in most instances by newly elected Representatives coming fresh from the people and reflecting the popular will long before the Senate with its small membership awakened to a realization that there were any such public problems.

Every just government must reflect the public will and execute the public mandate. The smaller the legislative body the less responsive it is to public sentiment, less inclined to reflect the will of the masses, and more disposed to yield to pressure and influence from those whose chief purpose is to exploit the people and plunder the government. A comparatively small House of Representatives is more liable to come under venal influences and more eager to legislate for the benefit of a few favored classes and to the detriment of the great army of so-called common people.

The multiplication of departments, bureaus, and commissions has tremendously increased the work of Representatives in Congress.

Every mail brings to me communications from my constituents requesting information or my assistance in matters in which they are interested and which are pending in the various departments, bureaus, and commissions. A custom has grown up under which Members of Congress are expected and required to perform these services, and I am glad to serve my constituents in this or any other right way. You will realize the amount of time a Congressman must give to matters of this kind when I tell you that all of my time when I am not on the floor of the House is employed in rendering my constituents this character of service. In view of this situation, I insist that no Member of the House can represent more than 250,000 people in an efficient and satisfactory manner, and a congressional district should not be so large or contain so many people that a Congressman is unable to familiarize himself as to the needs of his constituents. An increase in the House membership is absolutely inevitable if the masses are to have adequate representation and if the different vocational groups are to have an opportunity of expressing their will through their Representatives.

We know that the special, sordid, and sinister interests of this country when they want to work their purpose and defeat just legislation do not come to the House of Representatives. Where do they go? They "hotfoot" it over to another branch of the Congress of the United States, because they know they can more easily control legislation at the other end of the Capitol. They realize that in order to defeat legislation they only have to control—not necessarily by improper motives—49 Senators, while if they attempted to control the House they would have to control at least 218 Representatives. When you reduce the size of the House you reduce the size of the committees, and you make it easy for the selfish, sordid, and sinister interests of the Nation to control legislation. [Applause.]

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

Mr. DICKINSON of Iowa. Mr. Chairman——

The CHAIRMAN. For what purpose does the gentleman from Iowa rise?

Mr. DICKINSON of Iowa. I rise to ask unanimous consent to modify my amendment.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to modify his amendment.

Mr. DICKINSON of Iowa. In the following way: By striking out in line 13 on page 2, "by the method of equal proportion," and substituting "by such method as Congress may determine." I do not care which method it is.

The CHAIRMAN. Does the Chair understand that the gentleman offers a substitute for the section instead of to the whole bill?

Mr. DICKINSON of Iowa. Yes.

The CHAIRMAN. The gentleman asks unanimous consent to modify his amendment in the manner suggested, and make it a substitute for the first section instead of the bill itself. Is there objection?

Mr. SNELL. Reserving the right to object, I would like to add to the gentleman's amendment, "by the equalization fee." [Laughter.]

Mr. DICKINSON of Iowa. Any method that will make it more equal. [Laughter.]

The CHAIRMAN. The question is, Is there objection?

Mr. CELLER. Reserving the right to object, I would like to ask the gentleman whether he is in favor of this bill?

Mr. DICKINSON of Iowa. I am in favor of my substitute.

Mr. CELLER. I would like to ask the gentleman if he does not think there might be another deadlock if we leave the method to another Congress?

Mr. DICKINSON of Iowa. The gentleman from Mississippi has stated, and I have said, that we are in favor of a reapportionment by Congress after the Census of 1930 is completed, but we are in favor of Congress doing it.

Mr. CELLER. That is just the difficulty. Everybody seems to be in favor of reapportionment, but nobody wants to do anything.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa? [After a pause.] The Chair hears none. The question is on the first committee amendment.

Mr. CONNERY. Mr. Chairman, I ask unanimous consent to address the committee for five minutes on the bill.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. CONNERY. Mr. Chairman, ladies, and gentlemen of the House, I listened to my distinguished colleague Mr. TREADWAY in his argument in favor of this, the Fenn bill, and it brought to my mind the fact that if this bill passes, with the State of Massachusetts politically situated as it is, there is a strong probability that there will be a Republican legislature at the time of reapportionment of these congressional districts. I wish to call the attention of the House to the fact that there are two Democratic Congressmen from the city of Boston and always will be—Boston being a great Democratic city—and that I am the only Democrat in Congress from Massachusetts who comes from outside of the city of Boston, my home being in Lynn, so you can readily see that when the question of redistricting comes up before the Republican Legislature of Massachusetts it is almost a certainty that with one congressional district seat taken from Massachusetts, as this bill provides, the aim of that Republican legislature will be to eliminate the present Member of Congress from the seventh congressional district, and I refer to Mr. CONNERY, of Lynn. [Laughter.] Nevertheless, Mr. Chairman, I wish to say to the House that I am for the Constitution of the United States. [Applause.] And I am going to support this bill. In speaking of Massachusetts, I might also add that while the Legislature of Massachusetts is Republican, and while the people of Massachusetts always elect a Republican legislature, nevertheless the State of Massachusetts showed a remarkable discernment of the character of a wonderful man and chose to cast its electoral vote in the last election for that great Democratic candidate for President, Gov. Alfred E. Smith, of New York. [Applause.]

Mr. JOHNSON of Washington. Mr. Chairman, will the gentleman yield?

Mr. CONNERY. Yes.

Mr. JOHNSON of Washington. Merely to suggest a method by which the gentleman could make more sure of representing the seventh district of Massachusetts, and that is to get over into the party which he says will control the legislature.

Mr. CONNERY. Oh, let me say to the gentleman that gratuitously the Republicans of the seventh district of Massachusetts did me the honor of giving me the Republican nomination in that district at the last election, and I was elected on both the Democratic and Republican tickets. [Laughter and applause.] Incidentally I might also add that the Republicans voted on stickers and gave me 5,000 stickers in my district without any solicitation upon my part. I am grateful for and appreciate the honor which they paid me.

I believe that the provisions of the Constitution of the United States should be enforced. I do not believe it is mandatory upon Congress to reapportion every 10 years, but it is mandatory under the Constitution that an enumeration must be taken every 10 years. Nevertheless, I believe it was the intention of the framers of the Constitution that we should have this reapportionment every 10 years in order that we might have real representation of the people according to population.

Mr. BURTNESS. If the gentleman will yield, is it the intention to have it before or after the enumeration is made?

Mr. CONNERY. It is after the enumeration is made, and, of course, this should have been done after the 1920 census.

Mr. JACOBSTEIN. Under this bill will not the reapportionment take place after?

Mr. CONNERY. Yes. I wish to say in conclusion that I am for the Constitution. I believe in it. I want to see it strictly enforced, and I am going to vote for this bill even if it means my elimination from Congress. [Applause.]

The CHAIRMAN. The question before the committee is on the first committee amendment, which the Clerk will report.

The Clerk read as follows:

Page 1, beginning in line 3, after the word "That," strike out "as soon as practical after the fifteenth and each subsequent decennial census," and insert in lieu thereof "on the first day of the second regular session of the Seventy-first Congress and of each fifth Congress thereafter."

Mr. HOCH. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HOCH. I have a perfecting amendment which I desire to offer. Would it be in order after the committee amendment and before the amendment of the gentleman from Iowa?

The CHAIRMAN. The gentleman is correct. The question is on the committee amendment.

The question was taken, and the committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 2, in line 1, strike out the words "such census" and insert in lieu thereof "the fifteenth and each subsequent decennial census of the population."

Mr. BANKHEAD. Mr. Chairman, is it in order to oppose the adoption of the committee amendment?

The CHAIRMAN. It is.

Mr. BANKHEAD. Mr. Chairman, I propose to say only a few words in reference to this proposition. It seems to me that whatever might be the position of gentlemen upon the pending bill in reference to the present apportionment of the House, certainly it is not the part of wisdom to bind succeeding Congresses which should desire to act upon this every 10 years thereafter indefinitely. Now, four Congresses failed to perform in reference to the census taken in 1920, and it seems to me certainly we ought to leave to succeeding Congresses the right to legislate upon this question under their constitutional warrant, and for that reason for one I propose to vote against the committee amendments.

Mr. LEHLBACH. If the gentleman will yield, is there anything in this bill to prevent the succeeding Congresses from doing that?

Mr. BANKHEAD. No; nor nothing to prevent the next Congress from repealing this act. I think it is one of the main arguments against this bill. It is merely a gesture; it is no affirmative legislation in a constitutional sense. That is my view, but the point I insist upon, it seems to me the part of wisdom, to leave the question of apportionment to a Congress whose duty it shall be to deal with that matter hereafter, and I hope the committee amendment will be voted down.

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

The CHAIRMAN. The gentleman from Wisconsin is recognized for five minutes.

Mr. SCHAFER. Mr. Chairman and members of the committee, I voted for the last apportionment bill and will vote for the pending bill. This Congress will be derelict in its constitutional duty if it fails to enact such legislation. [Applause.]

While, under the estimates of the Department of Commerce, the State of Wisconsin will not lose or gain a Member, we can not foresee what the next census will reveal. There may be a different set-up after the actual census is taken than that set-up which has been submitted to the Congress by the department. The enactment of an apportionment bill is a matter of principle, and it makes no difference whether any State loses or gains in membership.

Newspapers throughout the State of Wisconsin, of all political varieties, have editorially condemned Congress, and I believe rightfully so, for not passing apportionment legislation. I think it is the duty of this Congress to serve notice on the next Congress that the constitutional provision shall be obeyed, or else there will be a reapportionment as provided in this bill. [Applause.]

I say to my friends who talk much about the sacred provisions of the eighteenth amendment to the Constitution that there are other provisions of the Constitution just as sacred, and those gentlemen who continually talk about enforcing the provisions of the Constitution, particularly the eighteenth amendment, should be on the floor of the House advocating the passage of this bill and not opposing it. [Applause.]

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

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

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

The Clerk read as follows:

Amendment offered by Mr. HOCH: Page 2, line 5, after the word "made," strike out the remainder of the line and all of lines 6, 7, 8, and 9 down to and including the word "numbers," and insert the following: "in accordance with the provisions of the Constitution of the United States."

Mr. HOCH. Mr. Chairman, I ask unanimous consent to proceed for 10 minutes.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. HOCH. Mr. Chairman and members of the committee, I regret to ask for any extension of time, but my own view is that ample time ought to be allowed to all Members who wish to discuss substantive propositions on a bill of this importance.

May I say just a personal word to express my own attitude? Many of us have had personal embarrassment in connection with this proposition. I have always voted for apportionment bills in this House, in face of the fact that my State would apparently be one of those to lose, because I believe we have the duty to perform under the Constitution. I have opposed an increase in membership. I shall vote for this bill, although I do not like all its provisions and would prefer to vote for a direct apportionment bill. But I have not the time to discuss those general views.

As the House is aware, I have offered an amendment to the Constitution of the United States to exclude aliens from the count in determining the representation in Congress, and thereby also determine the vote in the Electoral College. I have been importuned by many of the Members to offer that proposition to this bill. Firmly as I believe in the soundness of the proposition, I have not been able to bring myself to offer that amendment to this bill, because in my own view it requires an amendment to the Constitution of the United States, and I can not subject myself to the charge of insincerity in the support of this bill by offering an amendment which in my own view is unconstitutional. I may, however, if I have the time, discuss the amendment very briefly.

I now submit that the language of this bill which I have proposed to strike out is contrary to the Constitution, and I invite your careful attention to the consideration of this question which has not been raised thus far in this debate. All I ask is to strike out certain words and insert "in accordance with the provisions of the Constitution of the United States," leaving in the provision as to the method of major fractions.

Now, listen to the language of this bill. I begin to read on line 2, page 2:

And the number of Representatives to which each State would be entitled under an apportionment of 435 Representatives made in the following manner: By apportioning 1 Representative to each State (as required by the Constitution) and by apportioning the remainder of the 435 Representatives among the several States according to their respective numbers, as shown by such census, by the method known as the method of major fractions.

Now, I submit that that is not in accordance with the Constitution of the United States; that nowhere in the Constitution is there a provision calling for the apportionment of one Member to each State before you start the reapportionment.

What does the Constitution provide? It provides that the representation shall be proportionate to the number.

Then it says in another place no State shall have less than one Member of Congress, but that is an entirely different proposition from saying that you shall first apportion one Representative to every State and then shall subsequently apportion according to their numbers. To illustrate that, suppose it were provided in this bill that we should take half of the proposed Representatives and apportion them equally among all the States regardless of population, and then should apportion the remainder according to numbers. Obviously, that would be unconstitutional.

Mr. MOORE of Virginia. What is the alternative which the gentleman presents?

Mr. HOCH. The language is—

in accordance with the provisions of the Constitution of the United States.

For instance, let me put it this way: Suppose after we have apportioned all of the Representatives according to the numbers of the respective States we then find that no State has less than one Representative. I submit that we have fulfilled all of the constitutional requirements, and there would be no necessity of apportioning one to every State. In other words, you have taken 48 Members of the 435 and apportioned them, not on the basis of the Constitution, which is according to numbers, but you have apportioned them equally, 48 of them, among all of the States of the Union, and you only provide that the remainder, namely, 435 less 48, shall be apportioned according to the Constitution.

I am familiar with the fact that the last apportionment made followed this system; but because somebody in the Census Office followed this system does not make it constitutional, and I yield to any man who will show me any place in the Constitution where it says that it shall be done, to quote this bill—

by apportioning one Representative to each State (as required by the Constitution) and by apportioning the remainder of the 435 Representatives among the several States according to their respective numbers.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. JOHNSON of Washington. The gentleman understands that if one Member is given to each State it does not affect the total given to any State?

Mr. HOCH. No; I do not understand any such thing.

Mr. JOHNSON of Washington. A State has 1 Member—for instance, Arizona—and another State has 21 Members. When 1 Member is assigned to each State, that Member is not guaranteed his one place; the 1 takes his place in the 21, and such a scheme is necessary in any computation if you are going to do anything along the line of computation according to population.

Mr. HOCH. Not at all; and I believe it can be demonstrated mathematically and that just as far as possible all of the Members must be apportioned according to numbers if the Constitution is followed. Now, it might be true that by the time you got down to the last State you would find you had apportioned, we will say, all but one Member. Suppose we had apportioned 434 according to numbers and we found there was one State that did not have any Member and yet we found there was some other State which had a larger remainder unrepresented than this one State; then the Constitution would require that instead of giving that last Member to that State, so that the State would have two, we would give that Member to the State which had none, and that is as the Constitution requires. When you take 48 Members and apportion them regardless of numbers, it can not be that it would come out the same as if you apportioned them according to numbers.

Mr. JACOBSTEIN. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. JACOBSTEIN. I think the gentleman from Kansas is correct; but I think this is true, and I think the gentleman will agree with me, that that method really favors the small States.

Mr. HOCH. I am not discussing the question as to which State is favored, and I am not interested in that. I am merely proposing a method here which I think meets with constitutional sanction, and I submit to the friends of this bill that all I have done is to say that the apportionment shall be made in accordance with the provisions of the Constitution of the United States.

Mr. JOHNSON of Washington. The gentleman would seem to think that we would willy-nilly give one Member to New York State and that he would hold his place as a sort of bonus, which is not the proposition at all.

Mr. HOCH. No; not that. Let me read the provision to the gentleman. It provides that the apportionment shall be in the following manner: Apportion one Representative to each State, and then—

apportion the remainder of the 435 Representatives among the several States according to their respective numbers.

In other words, you do not apportion 435 according to numbers but apportion 435 less 48; that is, 387, according to numbers.

Mr. SUMNERS of Texas. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. SUMNERS of Texas. As I understand the gentleman's position, which seems to me to be reasonable, it is that under this arrangement each State would get two Congressmen.

Mr. HOCH. Not necessarily. I must hasten because I have only 10 minutes. I am sorry I can not yield further, but my time is too limited.

Suppose we have given one to every State, and we then find under the apportionment of the balance that at least one goes to every State. What would be the result if this happened, and it might easily happen? We would then have a State having two Members instead of having only one Member, according to population. That is very plain.

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

Mr. HOCH. Mr. Chairman, I ask unanimous consent to proceed for five minutes longer.

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

There was no objection.

Mr. BEEDY and Mr. CRAMTON rose.

Mr. BEEDY. Now that the committee has been generous, will the gentleman yield?

Mr. HOCH. I yield.

Mr. BEEDY. It appears to me that technically the gentleman is absolutely correct, but this question comes to my mind. If we write in the amendment that is proposed by the gentleman from Kansas, who would then determine what is the constitutional method?

Mr. HOCH. I take it, in the last analysis, perhaps, the court will have to do that, and if we write this committee language in the bill I would undertake to make a guess as to what the courts would say as to whether this is constitutional.

Mr. CRAMTON. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. CRAMTON. I am quite in sympathy with the gentleman's view. I think he is correct. As I understand his view, it is this, applying it, that a State with a population of 250,000, under the language of this bill, would be given two Representatives.

Mr. HOCH. It might easily happen. I do not say that in all cases it would happen, but clearly it might happen, mathematically, and if it did happen it would violate the Constitution.

Mr. CRAMTON. I do not see how it could help happening.

Mr. STOBBS. Will the gentleman yield?

Mr. HOCH. I yield to the gentleman.

Mr. STOBBS. I agree that the gentleman's contention is sound. It seems to me it is absolutely sound, but I am wondering, to clear up the ambiguity suggested by the gentleman from Maine [Mr. BEEDY], if the gentleman's amendment should not read:

The 435 Representatives shall be apportioned among the several States according to their respective numbers: *Provided*, That each State shall have at least one Representative.

Then you have the exact language of the Constitution taken from the 14th amendment and from the provision in the original Constitution.

Mr. HOCH. If we were going to do that I think we should incorporate all the language of the fourteenth amendment that applies to this proposition.

Mr. STOBBS. No; because you are simply apportioning among the States with respect to their respective numbers.

Mr. HOCH. But there is the rest of it with respect to counting the whole number of persons in each State, excluding Indians not taxed.

Mr. STOBBS. That is in the bill.

Mr. HOCH. I can not yield further for the moment.

I realize the temper of the House, but let me add this further reason, and I wish I had time to discuss the merits of the alien proposition.

I have this further purpose, and I will frankly state it. If we should be able to secure ratification of an amendment of the Constitution excluding aliens from the count, then the law, as I read it, would be adaptable to that situation—"according to the provisions of the Constitution of the United States."

So if we should adopt the amendment it would be all right, but if we incorporate the full language of the fourteenth amendment and then there should be an amendment of the Constitution, we would have the anomalous situation of the Constitution providing for the apportionment one way and the statute providing for the apportionment in another way, whereas if you simply say it shall be done in accordance with the provisions of the Constitution of the United States, certainly, nobody can object to that, and that provides for any eventuality in connection with the matter. Of course, this statute would fall if the Constitution were changed.

Mr. STOBBS. If the gentleman will yield just a minute, the difficulty is that while you are conferring a ministerial power

upon the Secretary of Commerce in this bill yet the minute you put in the words "in accordance with the Constitution of the United States," you are leaving to him the construction of the Constitution of the United States, whereas it seems to me you ought to specify, when you are conferring a ministerial power, exactly what you want that man to do and specify the provisions of the Constitution under which he shall act.

Mr. HOCH. And I suggest that if you specify, you ought to be very careful to specify a constitutional method.

Mr. JACOBSTEIN. Will the gentleman yield for another question?

Mr. HOCH. Yes.

Mr. JACOBSTEIN. Has the gentleman taken figures of any census or of any method to see whether you actually come to any different conclusion?

Mr. HOCH. I worked out a simple illustration or two which was enough to satisfy me. But I think it can be determined plainly as a matter of logic.

Mr. JACOBSTEIN. I think the gentleman will find that even if you take your method you will come to no different conclusion from that which is provided for in this bill. Even if you do not assign 48 Members, but simply apportion all the Members according to population, you will come to the same result.

Mr. HOCH. Does the gentleman know of any provision in the Constitution that provides that 48 Members shall be apportioned regardless of numbers?

Mr. JACOBSTEIN. No.

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

Mr. HOCH. Yes.

Mr. BURTNESS. On the very face of the language you are going to strike out under your amendment, are we not confronted with the anomalous situation that the statute itself seems to concede that just part of the proposal is required by the Constitution, and is there not the inference that the balance set out is not required by the Constitution and is possibly outside of constitutional requirements?

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

Mr. CELLER. Mr. Chairman, I rise in opposition to the amendment. I ask unanimous consent to revise and extend my remarks.

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

There was no objection.

Mr. CELLER. Mr. Chairman and gentlemen of the committee, I simply rise to take some exception to the observations of the gentleman from Kansas [Mr. HOCH] concerning the exclusion of aliens in the count for the purpose of reapportionment. I ask the gentleman from Kansas if he is aware—as I am informed—that in his own State of Kansas an alien who has declared his intention of becoming a citizen shall have the right to vote? I understand that in several other States—the States of Arkansas, Missouri, Nebraska, South Dakota, and Texas—by their constitutions aliens vote if they have declared their intention to become citizens.

Mr. HOCH. Will the gentleman yield?

Mr. CELLER. I will.

Mr. HOCH. The gentleman from New York is about nine years, if I recollect right, behind the times. As far as our State of Kansas is concerned, that was repealed in 1920, and I apologize for the State prior to 1920.

Mr. CELLER. I was then misinformed about Kansas. However that may be, there are some States, nevertheless, where they allow aliens to vote as declarants. You have, then, in some States the anomalous situation of a man who has a right to vote but is not counted in for the purpose of apportionment. And regardless of that, when it comes to taxation, surely, when it comes to the draft act, you do not discriminate against the aliens and say that they shall not be included.

Article I of the Constitution provides that Representatives and direct taxes shall be apportioned among the several States according to population. Thus, as far as taxes are concerned, income taxes for example, all must pay, alien and citizen alike. There is no discrimination when the country's bills are to be paid. Why should there be discrimination when representation in Congress is concerned? We fought a war in part because we, as colonists, were taxed without representation. Shall the aliens now cry, "Taxation without representation"? There are 7,000,000 aliens amongst us. They are generally law-abiding and useful and productive. Why slap them in the face, make them sullen and resentful?

Amendment 14, section 2, of the Constitution provides:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

You note that the amendment speaks of "persons." Maybe the gentleman from Kansas says the aliens are not persons and therefore need not be counted. Are aliens persons? Let the gentleman from Kansas answer.

Of course, all this discussion on this bill is malapropos. It would take a constitutional amendment to exclude aliens. Yet one can not help dilate upon the injustice of the proposal. In the selective draft act thousands and thousands of aliens were taken from the bosom of their families, placed in training, and catapulted abroad. Under treaty we have no right to treat them thus. We rode roughshod over the complaints of foreign governments that treaties were being trampled upon, which treaties guaranteed the rights of nationals of the complaining governments who were resident here. But most of the drafted aliens willingly entered our Army. Many of them made the supreme sacrifice. Go into any town, hamlet, or city. Examine their gold-star honor rolls. You will find many of the names gloriously written there were possessed by aliens.

Why place another bar sinister upon the alien? You have adopted restrictive legislation; some even want to register them. Why put more burdens on them? Leave them alone. I think it is wrong from every standpoint to exclude the aliens in this count.

I would remind gentlemen who are in favor of such propositions that something like 14 members of the Cabinets of Presidents during the course of our history at one time or another were aliens. I will put in the RECORD such names as Alexander Hamilton, Albert Gallatin, Carl Schurz, and our own present Secretary of Labor, Mr. Davis, who at one time were aliens. If you are going to exclude and hunt and hound aliens this way, do you not discourage them? Do you not make them lose heart? Do you not dampen an ardor to aspire, even, to Cabinet office?

It is interesting to note here and now the members of the Presidents' Cabinets who were born on foreign soil:

Alexander Hamilton, Secretary of the Treasury from September 11, 1789, to January 31, 1795. Born on the island of Nevis, January 11, 1757.

Albert Gallatin, Secretary of the Treasury from May 14, 1801, to February 9, 1814. Born in Geneva, Switzerland, January 25, 1761.

George Washington Campbell, Secretary of the Treasury from February 9, 1814, to September 26, 1814. Born in the shire of Sutherland, Scotland, in 1768.

Alexander James Dallas, Secretary of the Treasury from October 14, 1814, to October 21, 1816. Born on the island of Jamaica, June 21, 1759.

William Jones Duane, Secretary of the Treasury from June 1, 1833, to September 23, 1833. Born in Clanrood, Ireland, in 1780.

James McHenry, Secretary of War from February 6, 1796, to May 31, 1800. Born in county Antrim, Ireland, November 16, 1753.

Henry Dilwood Gilpin, Attorney General from January 11, 1840, to March 3, 1841. Born in Lancaster, England, April 14, 1801.

Jacob Dolson Cox, Secretary of the Interior from March 9, 1869, to October 31, 1870. Born in Montreal, Canada, October 27, 1828.

Carl Schurz, Secretary of the Interior from March 12, 1877, to March 7, 1881. Born near Cologne, Prussia, March 2, 1829.

Franklin Knight Lane, Secretary of the Interior from March 5, 1913, to February 29, 1920. Born near Charlottestown, Prince Edward Island, Canada, July 15, 1864.

James Wilson, Secretary of Agriculture from March 5, 1897, to March 5, 1913. Born in Ayrshire, Scotland, August 16, 1835.

Oscar Solomon Straus, Secretary of Commerce and Labor from December 17, 1906, to March 4, 1909. Born in Ottenberg, Bavaria, December 23, 1850.

William Bauchop Wilson, Secretary of Labor from March 5, 1913, to March 5, 1921. Born in Blantyre, Scotland, April 2, 1862.

John James Davis, Secretary of Labor from March 5, 1921, to date. Born in Tredegar, Wales, October 27, 1873.

Mr. HOCH. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. HOCH. Since the gentleman has referred to Kansas, is the gentleman aware that in New York by the State constitution they exclude aliens in the apportionment of representatives to the State legislature?

Mr. CELLER. I am well aware of the fact. I am not proud of that. It is wrong. But that wrong will soon be righted. There is great agitation in New York now to do away with the State census and to rely upon the Federal census. Such exclusion will not long remain upon New York statute books. Incidentally it was placed in the constitution for fear that the city would have greater power than the country. It is as inequitable as it is barbarous.

Now, I want to remind the gentlemen also that in the very beginning we were not so fearful about the alien. Everyone in the country at the time of the adoption of the Constitution became a charter member of this great United States. They did not worry about the situation then.

Let me read a brief passage from Americans by Choice, by John Palmer Gavit:

OUR "CHARTER MEMBERS"

As in the case of other new organizations, we had at the beginning what might be called "charter members." We were not fussy about it. There was no prejudice then against the newcomer—we "needed him in our business!" The Constitution of the United States in its inception took in as a matter of course everybody then resident here who by any color of law could be construed to be entitled to membership. Even the provision requiring native birth for the Presidency limited it only to one natural born, "or a citizen of the United States at the time of the adoption of this Constitution." Martin Van Buren was actually the first President born an American citizen. The seven who preceded him all were born subjects of the British Crown.

I favor a reapportionment of Representatives. Everyone here seems to favor a reapportionment.

Mark Twain said everyone talks about the weather but nobody wants to do anything about it. So the opponents of this bill also want reapportionment but will do nothing about it. Their pious declarations are meaningless.

The Constitution means something or it does not. It contains a solemn command that a census be taken each decade and reapportionment shall be based upon such census. Congress has been remiss in its duty since the 1920 census was announced. Unsuccessful efforts to reapportion have been made in the Sixty-sixth and Sixty-seventh Congresses. There has been no apportionment since 1911. Due to vast changes and shifting in population, we are fast developing a "rotten borough" system. There are many inequalities. Some Representatives represent 200,000 people, others close to a million. The more we delay the worse the situation becomes and the less grows the likelihood of legislation with each succeeding Congress. The delegation of each State that loses one or more Representatives will always vote against a reapportionment. One remedy would be to increase the size of the membership of this House above 435. Then no State would lose a Representative. That would be wrong, since the House is already unwieldy because of the number of Representatives. The number should not be increased.

This bill provides that if Congress fails to reapportion in 1930–31, then automatically the House is reapportioned in accordance with the tabulation transmitted by the Secretary of Commerce in his ministerial capacity as provided for in this bill; the tabulations transmitted to Congress are on the basis of the 1930 census, with the House membership remaining at 435.

An analysis of the bill will show that Congress always reserves to itself the right to make the reapportionment at any time it sees fit to do so. It is only in the event that Congress fails to do this that the provision for the automatic reapportionment goes into effect, and then only remains in effect until action is taken by Congress.

This is the only way to break the present deadlock. New York may lose one Representative by the 1930 census. What of it? The Constitution is more important than the loss of one Representative for New York. The Constitution must be obeyed. It is very strange that those who are loudest in complaining about violations of the eighteenth amendment are the most active in opposing this bill and in nullifying the other part of the Constitution, which is just as important as the eighteenth amendment, to wit, the first article and the fourteenth amendment. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. STOBBS. Mr. Chairman, I move to strike out the last word. I think the contention of the gentleman from Kansas is absolutely sound in that the phraseology of the present bill is not in conformity with the provisions of the Constitution, but I am not so sure that the amendment suggested by him is going to take us out of the difficulty. By his amendment he prescribes that the Secretary of Commerce shall apportion in accordance with the provisions of the Constitution of the United States. The difficulty of that position is that we may be conferring by that language upon the Secretary of Commerce something more than purely a ministerial function, and the minute we do that we are adding an unconstitutional provision to this bill. There is one other objection to the amendment, and it is this: This matter has not been carefully worked out as far as it is going to affect the other provisions of this bill, and it is uncertain just how much of the phraseology ought to be inserted here from the particular clauses of the Constitution.

Mr. HOCH. I leave in the last part of the section which provides for the method of major fractions.

Mr. STOBBS. That is all right.

Mr. HOCH. Unless the argument of the proponents of this bill is wrong, and this is something more than a ministerial duty, and I agree with those who say that it is only a ministerial duty, there is no question at all about the Secretary following the provisions of the Constitution of the United States. The only uncertainty is as to the method, and when I have left in the method, there is nothing for the Secretary of Commerce to do except certify the numbers as he finds them under the provisions of the Constitution of the United States, which are admitted by all, and have been exercised time and again before, according to the system of major fractions.

Mr. STOBBS. Why not specify under what provisions of the Constitution he wants the Secretary of Commerce to perform?

Mr. HOCH. I have stated to the gentleman that it would have been proper to use the first sentence of the second section of the fourteenth amendment, but the difficulty about that, from my viewpoint, believing in the exclusion of aliens, is that if we could get an amendment to the Constitution to exclude aliens, then we would have the statute reading differently from the Constitution, whereas if we say "according to the Constitution of the United States," then if the Constitution should be changed and aliens should be excluded, this statute would still be there for all time and be adaptable.

Mr. STOBBS. But the gentleman forgets that you can change a statute just as well as you can amend the Constitution of the United States. You may be running into a situation of asking the Secretary of Commerce to construe the Constitution of the United States, an act judicial rather and ministerial, and thus make your whole bill bad.

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

Mr. STOBBS. Yes.

Mr. DEMPSEY. Would not the object of the gentleman from Kansas [Mr. HOCH] and that of the gentleman from Massachusetts [Mr. STOBBS] be both met by striking out all of line 6 and all of line 7 except the last two words, "the four," change the period to a comma after "fractions," in line 11, and add these words:

Subject to the provision, however, that one Representative shall be assigned to each State.

In other words, you simply apportion the 435 Members among the States according to the census, subject to the provision that there shall be one Representative to each State.

Mr. STOBBS. I think that is sound, though I think you ought to use the phraseology of the Constitution by saying "*Provided*, That there shall be at least one Representative from each State."

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

Mr. GARRETT of Tennessee. Mr. Chairman, while I do not expect to vote for this bill as it stands, nor shall I vote for it even if the idea which is in the mind of the gentleman from Kansas [Mr. HOCH] is put into the bill, because that will not meet my objections to the measure, nevertheless I think the question which has been raised here by the gentleman from Kansas deserves the very serious consideration of its proponents and supporters. It seems pretty clear to my mind that under the provisions of this bill there are only 387 Members who will be apportioned on the major fraction basis and that there is no requirement that the Secretary of Commerce in sending his report to the Congress shall in those States that have more than one Member take the first one into consideration in making the calculation. In other words, there are 48 Members distributed here who will be wholly independent of the calculation and there will be only 387 calculated for under the terms of the language as it stands in the bill.

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

Mr. GARRETT of Tennessee. Yes.

Mr. NEWTON. I agree with the gentleman, but as a practical effect do not we have that case under the constitutional provision? There are 48 States; at least a portion of the 48 States that will not be chosen on the basis of major fractions.

Mr. GARRETT of Tennessee. Of course, this thing is complicated to my mind, and it is impossible for me to follow through in my own mind just what this result is going to be, but when we use the word "remainder" in connection with the major fraction idea, necessarily it does exclude one for each State before you begin the calculation.

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

Mr. GARRETT of Tennessee. Yes.

Mr. JACOBSTEIN. Of course, the gentleman understands that in 1910, the last reapportionment, it was actually worked in this way, and that we are now proposing a method which actually was used in 1910.

Mr. GARRETT of Tennessee. In that case the Congress itself worked the proposition out and named the number in the bill itself that each State was to have, and that is what it ought to do now. [Applause.]

But my friend from New York stands for a proposition to delegate this to the Secretary of Commerce.

Mr. JACOBSTEIN. There is an argument as to the delegation of power there. I say the power we now give is the power we exercised in 1910. We apportioned 48 Representatives first and then took the 387 and allocated them according to population. We are not doing any different with this bill than we did in 1910 and then in 1920.

Mr. GARRETT of Tennessee. Oh, absolutely. We knew what the population was then. We worked it out, and worked it out ourselves, in accordance with the statistics; but this does not propose to do that. It is to turn it over to an executive officer. I think the gentleman from Kansas deserves the thanks of the House for calling attention to the situation which manifestly will be created by the language of the bill if unchanged. [Applause.]

Mr. LOZIER. Apropos of the suggestion as to the 1910 apportionment, is it not true that Congress, with the statistics before it, did exercise the power arbitrarily as between some of the States when there was controversy as to which State had the major fraction? Now, this bill delegates to the Secretary of Commerce the same arbitrary power that Congress exercised in 1910.

Mr. GARRETT of Tennessee. I think that is true.

The CHAIRMAN. The time of the gentleman has expired.

Mr. GARRETT of Tennessee. I do not know that I ought to do so, but I will ask for about three additional minutes.

The CHAIRMAN. The gentleman from Tennessee asks unanimous consent to proceed for three additional minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. GARRETT of Tennessee. I do not know that one who occupies the position I do upon this question ought to be trespassing too much in the matter of amendments; but I think the expression in the amendment offered by the gentleman from Kansas will leave the situation very hazy, very uncertain, and I think the matter could be reached better, if anyone cares to do this, by striking out, beginning in line 5, page 2, all after the word "made" down to the end of the section, in line 11, and inserting "by apportioning this number among the several States—each State to have at least one Member—according to their respective numbers as shown by such census by the method known as the method of major fractions."

I offer that suggestion——

Mr. HOCH. The word "respective" refers back to the language of the fourteenth amendment. If put in at all you ought to put in the provision which follows in the fourteenth amendment, and I thought it best simply to say, "according to the Constitution of the United States."

Mr. GARRETT of Tennessee. May I direct the attention of the gentleman from Kansas to the fact that by putting in these words, "according to the Constitution of the United States," you are calling upon the Secretary of Commerce to determine what the Constitution of the United States is, and that I am not willing to do. I do not know who the Secretary of Commerce is going to be yet, and it is not proper to leave such a question to him in any event.

Mr. HOCH. May I interrupt the gentleman there?

Mr. GARRETT of Tennessee. Let me read to the gentleman the language as it would read if the language I have suggested would be agreeable: Beginning on line 2, page 2, "and the number of Representatives to which each State would be entitled under an apportionment of 435 Representatives made by apportioning this number among the several States (each State to have at least one Member) according to their respective numbers as shown by such census." It is almost the language of the bill.

Mr. JOHNSON of Washington. In other words, the gentleman thinks his language would perfect and carry out the intent of the bill.

Mr. TINKHAM and Mr. CRAMTON rose.

Mr. CRAMTON. Mr. Chairman, I have an amendment to offer.

The CHAIRMAN. There is a pro forma amendment pending. The time has been exhausted under the pro forma amendment. If there is no objection, the pro forma amendment will be withdrawn.

There was no objection.

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

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

Mr. CRAMTON. Mr. Chairman, this matter, raised by the gentleman from Kansas [Mr. HOCH], impresses me as of some importance, and I entirely agree with the gentleman from Tennessee [Mr. GARRETT] that the amendment suggested by the gentleman from Kansas does not reach the situation. The gentleman from Kansas will note that this section of the bill provides that the Secretary of Commerce shall send to the Congress a statement showing the whole number of persons in each State excluding Indians not taxed. Then Congress has before it a certain tabulation of States, with the respective population ascertained in a certain way. Then the amendment suggested by the gentleman from Tennessee, when he refers to the Members of the House, refers to the numbers set forth in the statement of the Secretary of Commerce, so that I prefer the language of the gentleman from Tennessee. I understand under the existing language there is this situation: There would be under the bill first, one apportioned to each State. Let us say that the ratio was one to 300,000. Then if the State had a population of 290,000, it would first receive one, set aside for each State, and then having received that, the bill proposes that the remainder of the number shall be divided in proportion to their respective numbers; that is, the State receives a second representative, which I think, is not the purpose of the committee and ought not to be permitted. Therefore, I think it is desirable that the amendment suggested by the gentleman from Tennessee be accepted.

Mr. HOCH. I do not see how this leaves the amendment which I proposed any more uncertain than it was before. The report of the Secretary of Commerce is to include the whole number of persons in each State, and that might include visitors that might be in a State. If not, I understand that he has the discretion to exclude visitors, although they are persons within the State.

Mr. CRAMTON. If there is a weakness existing in that part of the bill that the gentleman does not propose to amend, it is in the first part of the section where the duty is imposed on the Secretary to report the whole number of persons in each State, excluding Indians not taxed. If that leads to ambiguity, the gentleman might offer another amendment.

Mr. HOCH. I do not think there is any question at all about what the Secretary will certify.

Mr. CRAMTON. He certifies the number of persons in each State on some basis or other. The language here requires the apportionment to be on the basis of the respective numbers.

Mr. HOCH. The gentleman is interpreting it.

Mr. CRAMTON. I think the method of the gentleman from Tennessee is the better one.

Mr. BURTNESS. Does not the gentleman think that the ambiguities of language now disclosed in this bill are of such a nature that the committee ought to vote to recommit the bill? [Laughter.]

Mr. CRAMTON. Certainly not. This is a deliberative body. If we could never pass a bill without amending it on the floor, we would be a set of dumb-bells.

Mr. BURTNESS. Does the gentleman think it is possible to perfect the language?

Mr. CRAMTON. Yes. I have an amendment to offer, and I withdraw the pro forma amendment.

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn. The gentleman from Michigan offers a substitute amendment for the Hoch amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON as a substitute for the amendment offered by Mr. HOCH: Page 2, line 6, strike out the words "one Representative from each State" and the language in parenthesis "as required by the Constitution," "and by apportioning the remainder of," and, at the end of line 11, strike out the period and insert a comma and add the following: "No State to receive less than one Member," so that the paragraph will read "by apportioning the 435 Representatives among the several States according to their respective numbers as shown by such census by the method known as the method of major fractions, no State to receive less than one Member."

Mr. HOCH. Mr. Chairman, I rise in opposition to the amendment. My view is that if you are going to attempt to set out the language in the Constitution you ought to set out all of it and not a part of it. But I again urge this other matter. It may be a very idle hope that the Constitution of the United States will be changed as I have suggested, namely, the exclusion of aliens from the count, although I am beginning to believe, from the widespread interest the suggestion has aroused all over the country, that it is not entirely an idle hope.

Why should we here fix in a statute for all time, unless we do amend the Constitution, a provision which will be incon-

sistent with the exclusion of aliens? You say, "according to the respective numbers." Now, if you say "according to the Constitution" you have done that, and if the Constitution should be changed, as, of course, I think it ought to be in this particular, that language would still cover the situation.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Michigan to the amendment offered by the gentleman from Kansas.

The question was taken; and on a division (demanded by Mr. HOCH) there were—ayes 168, noes 50.

So the substitute was agreed to.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from Kansas as amended by the substitute offered by the gentleman from Michigan.

The question was taken; and on a division (demanded by Mr. HOCH) there were—ayes 219, noes 1.

So the amendment was agreed to.

Mr. TILSON. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TILSON. What amendment is now pending?

The CHAIRMAN. There is no amendment pending now except the substitute offered by the gentleman from Iowa.

Mr. TILSON. Have the committee amendments been adopted?

The CHAIRMAN. The committee amendments have been agreed to. The gentleman from Kansas [Mr. HOCH] offered a perfecting amendment. That has been disposed of, and there is nothing pending except the substitute motion of the gentleman from Iowa.

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

The CHAIRMAN. The gentleman from Massachusetts offers a perfecting amendment to the section, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. TINKHAM: On page 1, line 8, after the word "taxed," insert the following: "and inhabitants in each State, being 21 years of age and citizens of the United States, whose right to vote at an election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, has been denied or abridged except for rebellion or other crime."

Mr. FENN. Mr. Chairman, I make the point of order that the amendment is not germane.

Mr. BEEDY. Mr. Chairman, I call the attention of the Chair to the fact that the amendment purports to amend line 8, which has been stricken from the bill.

The CHAIRMAN. The Chair will state that the amendment is offered after the word "taxed," in line 8, on page 1. Line 8 on page 1 has not been stricken from the bill. The Chair will be glad to hear the gentleman from Massachusetts on the point of order.

Mr. TINKHAM. Mr. Chairman, the question has been raised that this amendment is not germane. Whether it is germane or not is determined, it seems to me, by the wording of the fourteenth amendment itself—that is, section 2 of it. Let us read what section 2 of the fourteenth amendment says:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crimes, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

The bill provides that Representatives shall be apportioned among the several States "according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed," in accordance with the provisions of section 2 of the fourteenth amendment.

The amendment I propose is to carry out the rest of that section in order that the apportionment among the several States shall be equal, in accordance with the Constitution, lawful, and equitable to the different States. I can not see how it is possible to say that that is not germane; it is a part of the very amendment to the Constitution in question. What is more, it is the mandatory part of section 2 of that amendment, as the word "shall" is used. How can an apportionment of Representatives be constitutional unless the constitutional requirements are observed?

Mr. RANKIN. Mr. Chairman, of course, we know what the amendment means. By this amendment the Member from Massachusetts [Mr. TINKHAM] attempts to cut down Southern representation because of the fourteenth amendment. I call the Chair's attention to the fact that this question has long since been settled by the Supreme Court, the highest tribunal in the land. The Congress of the United States has no power whatever under the fourteenth and fifteenth amendments to the Constitution to disturb Southern representation because of the fact that negroes do not vote.

The fourteenth amendment when adopted provided that if the male inhabitants of any State were denied the right to vote that State's representation should be proportionately cut down. Shortly afterwards the fifteenth amendment was adopted.

Under the fourteenth amendment, if any State had passed a law—and I will quote the authority in a moment to show you that that is what is meant—if any State had passed a law to deprive these people of the right to vote, under the fourteenth amendment the Congress would have had the power to reduce the representation of that State accordingly; but by the adoption of the fifteenth amendment, it is provided that no State shall pass such a law, thereby nullifying and rendering nugatory that clause of the fourteenth amendment.

Mr. Bryant, of Wisconsin, in his treatise on the Constitution of the United States, at page 333, says:

The fourteenth amendment is prohibitory upon the States only, and the legislation authorized to be adopted by Congress is not direct legislation on the matter respecting which the States are prohibited from making or enforcing certain laws or doing certain acts, but is corrective legislation, such as may be necessary or proper for counteracting or redressing such laws.

Also a notation of the Eleventh Federal Statutes Annotated, 1096, says:

The prohibitions of the fourteenth amendment are directed to the States and they are to a degree restrictive of State power.

The Supreme Court of the United States in passing on this question about which we have heard so much from certain sections, in Third United States, page 109, says:

Until some State law has been passed or some State action through its officers or agents has been taken adverse to the rights of the citizens sought to be protected by the fourteenth amendment, no legislation of the United States under said amendment, nor any proceeding under such legislation can be called into activity, for the prohibitions of the amendment are against State laws and acts done under State authority.

The Hon. James G. Blaine, who was Speaker of the House at the time, I believe, that the fifteenth amendment was adopted, and was a Member of the House at the time the fourteenth amendment was adopted, in his Twenty Years of Congress, which I trust some of you will take the time to read before you continue to go out and slander certain States by charges that are false and unfounded about their laws and their conduct toward the people living within their borders, says:

Its prime object—

Speaking of the fourteenth amendment—

was to correct the wrongs which might be enacted in the South, and the correction proposed was direct and unmistakable; namely, that the Nation would exclude the negro from the basis of apportionment whenever the States should exclude him from the right of suffrage.

When, therefore—

Says Mr. Blaine—

the Nation by subsequent change in its Constitution declared that the State shall not exclude the Negro from the right of suffrage, it neutralized and surrendered the contingent right before held to exclude him from the basis of apportionment.

Congress is thus—

Mr. Blaine continues—

plainly deprived, by the fifteenth amendment, of certain powers over the representation in the South which it previously possessed under the provisions of the fourteenth amendment. Before the adoption of the fifteenth amendment if a State should exclude the Negro from suffrage, the next step would be for Congress to exclude the Negro from the basis of apportionment. After the adoption of the fifteenth amendment if a State should exclude the negro from suffrage, the next step would be for the Supreme Court to declare that the act was unconstitutional and therefore null and void.

Absolutely taking from Congress any right to interfere with this proposition.

Recently this matter came up in the Senate, and Senator BORAH, perhaps one of the best lawyers in the country, stated

that he had heard that charge against the Southern States made time and again in the last few years, and that he had taken it on himself to examine the constitutions and the statutes of all the Southern States, and not one of them had he found to violate either the fourteenth or the fifteenth amendment.

Why, we have no more right to adopt this amendment than we would to adopt an amendment regulating the election laws of the State of Massachusetts or the school laws of the State of Indiana.

I submit, Mr. Chairman, that the point of order should be sustained.

Mr. SNELL. Mr. Chairman, I am not particularly interested in the amendment, but I am interested in the parliamentary situation.

As I understand, the bill before the House deals with apportionment of Members of Congress among the various States of the Union. If I understood the amendment offered by the gentleman from Massachusetts [Mr. TINKHAM] it gives instructions to the Director of the Census as to the manner in which he should take the census and as to certain matters to be considered, thus giving additional instructions to that official and imposing new duties concerning the taking of the census. As the question of the census is not referred to in this bill, except that the apportionment shall be made as a result of the census, the gentleman is bringing a new question before the committee that is not being considered in the original bill or in fact is presenting a new proposition and is not in order at this time and, in my judgment, it is not germane for that reason, and the point of order should be sustained.

Mr. TINKHAM. Mr. Chairman, I think the honorable Representative from New York is wrong. We are to apportion Members of this House among the several States. It will be done either constitutionally or unconstitutionally. If it is to be done constitutionally then the directions of the Constitution must be observed, and they are plain.

In the bill now before us it is provided that Indians not taxed shall not be included in fixing the number of Representatives from the respective States. Why? Because the Constitution says that they should not be included. But the Constitution provides also, where there is disfranchisement, there shall be a reduction in representation, that the basis of representation shall be reduced in each State in proportion to the number of inhabitants who are disfranchised. How is it possible to comply with the Constitution unless this is done? If this is not done, not only is the House of Representatives not constitutionally organized but representation among the States is not equal.

The CHAIRMAN. The Chair is ready to rule. The gentleman from Massachusetts [Mr. TINKHAM] on yesterday was good enough to advise the Chair of the amendment which he was to offer and the Chair has had some time to consider it.

The first section of the bill as now amended reads as follows:

That on the first day of the second regular session of the Seventy-first Congress and of each fifth Congress thereafter, the Secretary of Commerce shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the fifteenth and each subsequent decennial census of the population, and the number of Representatives to which each State would be entitled under an apportionment of 435 Representatives made in the following manner: By apportioning the 435 Representatives among the several States according to their respective numbers as shown by such census, by the method known as the method of major fractions, no State to receive less than one Member.

This legislation is for the purpose of securing a reapportionment of the membership of the House among the States. It does not itself directly reapportion the membership but provides the machinery by which such reapportionment may be made through the agency of the Secretary of Commerce, in the event that the Congress itself in such a contingency does not make the apportionment.

The question now before the committee came up on January 19, 1921, when this House actually did pass an apportionment bill based on the 1920 census. The Committee on the Census had reported a bill for 483 Members. The gentleman from California [Mr. BARBOUR] offered an amendment changing the reapportionment, and reducing the membership to 435. The gentleman from Massachusetts [Mr. TINKHAM], following a statement as to the number of Representatives from each State, the last State being the State of Wyoming, in alphabetical order, offered this amendment:

Insert on page 3, between lines 17 and 18, after the words "Wyoming 1," the following: "*Provided further*, That if any State deny or abridge the right of any inhabitants thereof, being 21 years of age and citizens of the United States, to vote at any election named in the amendment to the Constitution, Article XIV, section 22, except for participation in rebellion or other crime, the number of Representatives apportioned to that State shall be reduced in proportion to the number which such citizens shall bear to the whole number of citizens 21 years of age in such States."

To this amendment the present distinguished Speaker of this House, Mr. LONGWORTH, of Ohio, made a point of order, and argued his point of order in language which I think is not only persuasive but decisive of this question. He said, and I shall only read a portion of what he said (CONGRESSIONAL RECORD, 66th Cong., 2d sess., p. 1682):

Mr. LONGWORTH. The merits or demerits of the amendment offered by the gentleman from Massachusetts have nothing at all to do with the point of order I am making, which is only as to the question whether it infringes the rules of the House or not.

It seems to me, Mr. Chairman, that the amendment offered by the gentleman from Massachusetts (Mr. TINKHAM) is not germane to this bill, because it introduces an entirely new element.

This bill fixes the representation of the various States, based on population and population alone. The amendment of the gentleman from Massachusetts (Mr. TINKHAM) would provide a test by which that representation might be diminished, notwithstanding the fact that the population would remain the same.

The gentleman cites Article XIV of the Constitution which provides, among other things—

"When the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States"—

And so forth, that the representation shall be correspondingly reduced. In other words, it introduces into this bill an entirely new and separate proposition, to wit, the question as to whether the inhabitants of certain States do or do not do certain things when participating in elections, not only for Members of Congress but for local and State officers and members of the legislature.

Within the very limited time that I have had to look up any precedents I do not know that I can cite the Chair to any large number of them, but I do cite the Chair to the decision on March 26, 1897, when a tariff bill was under consideration in the Committee of the Whole House on the state of the Union.

This decision is referred to in the decision of Mr. Alexander, and is found on page 518 of the Manual.

In that case an amendment was offered to a tariff bill, which provided that when it is shown to the satisfaction of the Secretary of the Treasury that articles are manufactured, controlled, or produced in the United States by a trust or trusts, the importation of such articles from foreign countries shall be free of duty until such manufacture, control, or production shall have ceased, in the opinion of the Secretary of the Treasury.

It seems to me that the precedent comes very close to the proposition now before the committee. There they were considering the general subject of a tariff bill. The amendment offered related to the tariff, just as this amendment relates to representation, but it introduced a new element and provided a test under which certain articles should go on the free list if, in the opinion of the Secretary of the Treasury, their production was controlled by a trust.

In that case the amendment was held not to be germane to the bill and the point of order against it was sustained.

This case provides a new test, under which certain States, regardless of their population, would not have the same representation that other States with the same population would have. If the Chair should hold this amendment of the gentleman from Massachusetts to be in order, why might it not be in order to offer an amendment to provide that where a State, for instance, interfered with the nineteenth amendment, giving the right of suffrage to women, the representation of that State should be reduced; or where any State fails to follow the constitutional provision as to the enforcement of any other amendment why might it not be reduced?

In the very exhaustive, and it seems to the present occupant of the chair, conclusive argument at that time, on January 19, 1921, the gentleman from Ohio [Mr. LONGWORTH] was supported by Mr. Mondell, then the Republican floor leader, and by Mr. GARRETT of Tennessee, the present Democratic floor leader, than whom there are no abler parliamentarians in the history of recent Congresses. The gentleman from Wyoming, Mr. Mondell, very strongly and pertinently argued in support of the point of order, in this language:

The committee [on the census] might, in reporting the bill, have gone into the matter of the fourteenth amendment to the Constitution, in my opinion; it might have made an effort to enforce the provisions of the fourteenth amendment, or to place them in the position, or on the road, or in the way of enforcement. The committee did not see fit to do that, and no amendment is germane to this bill, first, which treats of a subject matter different from that contained in the bill; second, that treats of a matter in the bill, but not in the manner provided for

in the bill as reported by the committee. The committee did not invoke the provisions of the fourteenth amendment. The committee specifically provided for an apportionment based on the census. It injected no further question into its legislation; and it certainly is not in order on a bill providing simply for an apportionment of Representatives among the States based upon the census to present an amendment, the purpose of which may be assumed to be an attempt to enforce an amendment to the Constitution dealing with an entirely different matter or dealing with the same matter in an entirely different way from that in which the bill deals with it.

In the same discussion the gentleman from Tennessee [Mr. GARRETT] called attention to the various phases of the rule on germaneness, calling attention to what was then, and is yet, section 778 of the House Manual, which lays down the principles that—

(a) One individual proposition may not be amended by another individual proposition, even though the two belong to the same class.

And—

(b) A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject.

And further—

(d) Two subjects are not necessarily germane because they are related.

The Chairman of the Committee of the Whole, Mr. Campbell of Kansas, sustained the point of order against the Tinkham amendment, and in his decision said:

The question as to whether or not this amendment is germane to section 1 of the bill demands an inquiry into the purpose of that section and, as far as can be ascertained, the purpose of this amendment. That section fixes a definite number of Members from the several States according to the census returns. The amendment does not fix or relate to a definite number of Members; on the contrary, it leaves the number of Members apportioned to any State to a contingency that may arise in the future. It has been held by well-considered decisions that even though a subject relates to the same matter, yet if it introduces a new element or an element of uncertainty, or if it provides a future action upon the happening of something indefinite, the matter so offered is not then germane as an amendment.

It seems to the present occupant of the chair that this precedent of January 19, 1921, is in point. It is true that we are not now directly apportioning the number of Representatives to and among the States, but we are providing for an apportionment. We are appointing an agency who shall make the apportionment of a fixed number of Representatives among the States in the manner, and according to the rules laid down in the bill, upon certain and definite facts and figures to be established by the Bureau of the Census, under the Secretary of Commerce, acting under authority of various laws other than the pending bill, for the taking of the decennial census. The amendment of the gentleman from Massachusetts [Mr. TINKHAM] introduces a new element, a new standard, a new basis for the apportionment other than population, other than the enumeration provided by existing law, and requires an inquiry, an investigation, and a conclusion, not ministerial or administrative, but judicial and discretionary, as to whether the voting rights of citizens have been abridged not only generally through legislation and general practices but within restricted groups of citizens who have not participated in rebellion or other crime. While the bill imposes only ministerial duties upon the Secretary of Commerce, the proposed amendment compels him and his subordinates, acting in his behalf, to exercise judicial functions of the highest order and importance. The amendment seems clearly not to be germane to section 1 or to the bill.

The gentleman from New York [Mr. SNELL] suggested another question and another angle which seems to the chairman also entirely decisive of this question. The chairman has examined the law upon the census. There are numerous laws relating to the census, all of them providing various things that the Department of Commerce and the Bureau of the Census shall ascertain in the taking of the decennial census and the enumeration therein provided for. There is no provision in any law in regard to the taking of the census or making the enumeration for ascertaining any facts relative to matters which are contained in the amendment offered by the gentleman from Massachusetts.

Nothing in the census laws anywhere requires or permits the superintendent of the census or the enumerators under the census law to secure any information in regard to the abridgment of the right to vote in the several States. When the present occupant of the chair presided in the Committee of the Whole House on the state of the Union for the consideration of a measure entirely similar to this—in fact, the same one practically—in the last session, on May 18, 1928, the gentleman from New York [Mr. CELLER] offered an amendment which read as follows:

All special agents, supervisors, clerks, enumerators, interpreters, and all other employees taking the census shall be appointed from the civil-service list after examinations conducted under rules and regulations promulgated by the Civil Service Commission.

The present occupant of the chair held at that time that that amendment was out of order upon the ground that it was an amendment to the census law, relating to a subject not germane to the subject matter of the bill then before the House. The present bill is practically the same bill as the House considered last May.

Without any reference, of course, to the merits of the amendment, but entirely upon the parliamentary ground that the subject matter of the amendment differs from that of section 1 and of the bill, and that the amendment introduces an entirely new element so far as the purposes of the bill are concerned, and that it in fact amends the census law, which is not before the committee in the consideration of this bill, the Chair holds that the amendment is not germane and sustains the point of order.

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

The Clerk read as follows:

Amendment offered by Mr. BRIGHAM: Page 2, line 11, strike out the period, add a comma and the following: "*Provided*, That any State whose representation would be reduced to the one Representative to which such a State is entitled under the Constitution shall have apportioned to it an additional Representative if its population shall exceed by more than 25 per cent the average population per Representative for the United States, and to that extent the whole number of Representatives shall be increased accordingly.

Mr. BRIGHAM. Mr. Chairman, when the representation of a State is reduced to one, that one Representative has to represent all the people of the State. The population of the State may be such that the one Representative may have a constituency equal to the average for the United States and in addition thereto a number of persons nearly large enough to give the State an additional number. For instance, New Mexico and Vermont have remainders of 46 per cent, which are nearly major fractions, and which are, therefore, nearly large enough to entitle each of them to an additional Representative under this bill. If the method of equal proportions had been adopted they would be entitled to two Representatives each. These States will more nearly have average constituencies and more nearly have their fair share of representative power if Representatives are given them than if they are withheld. This is what the amendment will do under the conditions of 1920. In future years, if the bill passes, other States will likewise be affected. If we fix the membership of the House at 435 and our population continues to grow, the quota of population which entitles a State to a Representative must also continue to increase. In a few decades it may require 400,000 for a full quota, so that a State with 400,000 population will have one Representative and a State will not be entitled to two Representatives until it has a population of more than 600,000.

I believe this situation should be taken care of and I have offered this amendment for that purpose.

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

The amendment was rejected.

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

The Clerk read as follows:

Amendment by Mr. LEAVITT: Page 1, line 8, after the word "State," strike out the words "excluding Indians not taxed," and insert in lieu thereof the following: "excluding those persons whose exclusion is required by the Constitution."

Mr. RANKIN. Mr. Chairman, I make the point of order against the amendment.

The CHAIRMAN. Does the gentleman from Montana care to be heard upon the amendment?

Mr. LEAVITT. I would like to hear the grounds of the point of order.

Mr. RANKIN. I shall reserve the point of order if the gentleman desires.

The CHAIRMAN. The gentleman from Mississippi reserves the point of order.

Mr. LEAVITT. Mr. Chairman and Members of the House, this amendment strikes from the bill the words "excluding

Indians not taxed" and substitutes for those words the words "excluding those persons whose exclusion is required by the Constitution."

At the time the Constitution was written the situation of the Indian population of this country was entirely different from that which exists among them now. This Congress, in 1926, without a dissenting vote, granted to the Indian population, without regard to whether or not they were taxpayers, the right to vote and to be citizens to that extent throughout the United States. That took place in the Sixty-eighth Congress. The nontaxpaying Indians in many of the States to-day are voting for Members of Congress, and as the Constitution now stands they can not be enumerated in determining how many Members of Congress there shall be from the States in which they reside.

There has also been presented by the gentleman from Kansas [Mr. HOCH] an amendment to the Constitution which will exclude another class of people, the noncitizen aliens, from enumeration when we are considering the apportionment of Members of Congress to a State, and considering that proposal as likely to become the Constitution, when that proposal comes before the House for consideration it is my intention to have removed, if I can, the exclusion of Indians not taxed. This law we are now considering should be so written that nontaxed Indians can then be counted when in the future we take out of the Constitution the words requiring them to be excluded.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. LEAVITT. I will.

Mr. LAGUARDIA. Of course, the gentleman understands that if the Constitution is not amended his amendment will not remedy the situation of which he speaks?

Mr. LEAVITT. My amendment will not affect the situation in regard to Indians not taxed until the Constitution is changed.

Mr. TILSON. If the gentleman will yield, after the Constitution is changed will it not be perfectly easy to change this law if it shall remain on the statute books until that time?

Mr. LEAVITT. Theoretically so, but perhaps not.

Mr. STEVENSON. After the Constitution is changed such parts of this law as are in conflict with the changed Constitution would fall. Is not that true?

Mr. LEAVITT. Yes.

Mr. STOBBS. The phraseology not only excluded Indians but any person whose right to vote had been abridged by any particular State.

Mr. LEAVITT. No. If the Constitution intends the exclusion of any class of individuals, it will so read specifically.

Mr. STOBBS. Are not you passing the census made to the Secretary of Commerce for him to function?

Mr. LEAVITT. I think not.

Mr. STOBBS. Do you direct him to exempt those persons from exclusion as required by the Constitution? How is he to determine?

Mr. LEAVITT. There will be no necessity to use personal judgment in regard to it at all. It will be written plainly.

Mr. LAGUARDIA. Is it not a very artistic way of doing what the gentleman from Massachusetts sought to do?

Mr. LEAVITT. Not intentionally; and it is not.

Mr. SNELL. Did the gentleman from Mississippi make the point of order or reserve the point of order?

Mr. RANKIN. I make it.

The CHAIRMAN. The Chair is ready to rule. In the opinion of the Chair this amendment is subject to the same objections as was the amendment offered by the gentleman from Massachusetts. It brings in entirely new subjects not within the contemplation and the purpose of the pending bill, and is not germane. In addition, it is within the well-known rule that a specific subject can not be amended by a general provision of the same nature. The Chair sustains the point of order.

The question now recurs upon the amendment offered by the gentleman from Iowa to which the gentleman from Georgia offered a pro forma amendment. Is there objection to the pro forma amendment being withdrawn?

Mr. SNELL. May we have the amendment presented to the House again? It has been so long since it was read.

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

There was no objection.

The amendment was again reported.

Mr. RANKIN. Mr. Chairman, I ask unanimous consent to address the House for five minutes.

The CHAIRMAN. The gentleman from Mississippi asks unanimous consent to address the House for five minutes. Is there objection? [After a pause.] The Chair hears none.

Mr. RANKIN. Mr. Chairman, this amendment does exactly what the proponents of this bill say they propose to do under the bill, without delegating our authority to anybody.

Several men who are not going to be in the next Congress have spoken against it. I am sorry they will not be here. They may be apprehensive that we will be remiss in carrying out our duty. But there are 365 Members now in the House who will be Members of the next Congress, and by this resolution we solemnly declare that after the taking of the census of 1930 we will reapportion the House on the basis of that census. In that way we will not be delegating our authority to somebody else. We will be passing a resolution that will go through the Senate and at the same time not raise the question as to whether or not we have the right to delegate our authority. By this amendment you are not delegating your authority under the Constitution. I hope it will be adopted. [Applause.]

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

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DICKINSON of Iowa. Mr. Chairman, I ask for a division.

The CHAIRMAN. A division is called for.

The committee divided; and there were—ayes 118, noes 122.

Mr. DICKINSON of Iowa. Mr. Chairman, I ask for tellers.

The CHAIRMAN. Tellers are demanded.

Tellers were ordered; and the Chairman appointed Mr. FENN and Mr. DICKINSON of Iowa to act as tellers.

The committee again divided; and the tellers reported—ayes 136, noes 144.

So the amendment was rejected.

Mr. CRAIL. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

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

There was no objection.

Mr. CRAIL. Mr. Chairman and my colleagues, Representatives in the United States Congress, in his discussion of this bill the gentleman from Mississippi [Mr. RANKIN] stated that it had been fostered and was being urged upon Congress by Members who were seeking personal political advantage from it. I do not think that this accusation should be allowed to go unchallenged. Speaking for myself individually, I repudiate the assertion. I do not resent the statement. It was made in the heat of argument and I have too much respect and admiration for the gentleman from Mississippi to believe that he meant to be unkind or harmful. I have been trying to think over what personal political advantage any Member of this House could get out of the passage of this bill and I can conceive of none. Under the circumstances personal political advantage would mean either that the Members because of this bill would have less difficulty in reelection to Congress or, because of the passage of the bill, would have more prestige at home or on this floor. Making the district of a Member smaller would not make it easier for his reelection. On the contrary, after a man is once in Congress the larger his district is and the more people there are in it the more difficult and the more expensive it is for an opposing candidate to defeat him. On the matter of prestige I ask you, Would it not be a greater honor and distinction at home to be the sole Representative in Congress of a large city like Seattle or Portland or Oakland or Los Angeles than it would be to be one of several or many Representatives from such a city? Much has been said about the city of Detroit and its two Members in Congress who are on the Committee of the Census, which favorably reported this bill. I ask you, Would it not give a Member greater prestige at home and on this floor to be one of the two Representatives from a great city like Detroit than it would to be one of many representing such an energetic and thriving metropolis?

The conclusion must be, and is, that those who are urging the passage of this bill are doing so from honest and patriotic motives, that they are doing their constitutional duty as they see it.

In the county of Los Angeles, in the State of California, there are more than 2,000,000 people who are not represented on this floor. Thirty days before the last general election, November 6, 1928, there were 925,292 registered voters in Los Angeles County. If you would multiply this number by three you would have approximately the number of inhabitants there are in Los Angeles County. In the tenth congressional district of California, which it is my honor to represent, there were, at the last election, 503,677 registered voters, indicating a population of approximately 1,500,000 people in one congressional district. The last reapportionment for Members of Congress was made on a basis of 211,000 population for each congressional district. This means not only that the tenth congressional district of California has a million and a quarter people who do not have constitutional representation in this House but it means more as I shall try to explain.

Presidents of the United States are elected not by popular vote but by presidential electors which are apportioned among the States according to the number of Members of Congress each State has. Each State is entitled to as many presidential electors as it has Members of Congress. Nearly all of the Members of this House took an active part in the presidential election which was had last November. It did not seem right to me, and during the campaign when I was required to make mention of the fact it was with deep humiliation that I had to tell my constituents, when I was urging them to go to the polls and vote, to say in the same speech that six of their votes would not be equivalent to one vote in scarcely any other State in the Union. I will say, because it is the truth, though I want to say it without being offensive, that the States in which the vote of one elector counted for much more in the presidential election than six votes of my constituents amounted to, are the States in which the opponents of this bill reside.

Considerable has been said about this being a dignified assembly, composed of intelligent and able men, and that the Congress was not yet ready to allocate its constitutional prerogatives to a clerk in the Census Bureau. The men who make this argument also contend that the membership of the House should be enlarged so that no State would lose representation because of reapportionment, which would require an increase of the membership of the House from 435 Members to 534 Members. The membership of the House is already too large. It should be reduced to 200 or 240 Members. In the First Congress there was an average of five Representatives to each State. On that basis there would be 240 Members at the present time. A larger membership than we now have would be intolerable. The House could scarcely function. As it is the work of the House is cumbersome, inefficient, and difficult. Rules which do not exist in any other parliamentary assembly have been adopted in this House in order that such a large group of Representatives may function at all. Surely the number of Representatives should not be increased.

I sympathize with the Members from States which will lose representation in Congress under a constitutional reapportionment. I realize that for them there may be real personal political disadvantage. It has often been said that self-preservation is the first law of nature and I think I realize just how some of these Members feel who think that the passage of this bill might eliminate their congressional districts and possibly their political careers. They can have this consolation that reapportionment under this bill can not become operative for at least four years, giving them plenty of time to readjust themselves to changed conditions. If they vote for this bill they will have the satisfaction of knowing that they are doing their solemn sworn duty in keeping this branch of Congress representative of the people of the Nation and in carrying out the mandate of the Constitution that reapportionment shall be had every 10 years.

The reapportionment under this bill will not be the first reapportionment which has caused loss in representation to States. In 1840, 15 States out of a total of 26 States lost Representatives by reason of reapportionment. Virginia has been cut from a total of 23 Representatives until it now has but 10. During one period the State of New York lost nine Representatives in Congress. Practically all of the older States have lost Representatives at some reapportionment or another. It has not hurt the States any and it has not worked any great evil to the fortunes of the Representatives from those States. The losses in representation which have been suffered by States in other reapportionments conclusively demonstrate that in spite of considerations of personal disadvantages the Representatives in Congress have been willing to do their duty because it was their duty. I appeal to my colleagues of this Congress to do their duty for the same high considerations. I have an abiding confidence that you are honest and patriotic and fearless and that you will do your duty nobly and that this bill will be passed by a large majority.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. (a) If the Congress to which the statement required by section 1 is transmitted, fails to enact a law apportioning the Representatives among the several States, then each State shall be entitled, in the second succeeding Congress and in each Congress thereafter until the taking effect of a reapportionment on the basis of the next decennial census, to the number of Representatives shown in the statement; and it shall be the duty of the Clerk of the last House of Representatives forthwith to send to the executive of each State a certificate of the number of Representatives to which such State is entitled under this section. In case of a vacancy in the office of Clerk, or of his absence or inability to discharge this duty, then such duty shall devolve upon the officer who, under section 32 or 33 of the Revised Statutes, is charged with the preparation of the roll of Representatives-elect.

(b) This section shall have no force and effect in respect of the apportionment to be made under any decennial census unless the statement required by section 1 in respect of such census is transmitted to the Congress on or before the first day of the first regular session which begins after the taking of such census has begun.

With a committee amendment as follows:

Page 3, line 6, after the word "Congress," strike of the words "on or before the first day of the first regular session which begins after the taking of such census has begun" and insert in lieu thereof the words "at the time prescribed in section 1."

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

Mr. WINGO rose.

The CHAIRMAN. The gentleman from Arkansas is recognized.

Mr. WINGO. Mr. Chairman and members of the committee, I do not feel like letting this bill pass—I presume it will pass—without submitting a few observations. I think it will be conceded, in view of the fact that my State, Arkansas, is not affected and will neither lose nor gain a Member under this proposition, that my judgment is not beclouded by any personal interest either of my State or of myself.

First, I want to say this: We have had a great deal of criticism of Congress because it has been charged that we have not discharged our constitutional duty by reapportioning this House after the last decennial census. I think it is a fair statement of the provisions of the Constitution that it is the constitutional duty of the Congress that is in session after the census is completed to make that reapportionment. I doubt very seriously if it is the constitutional duty of a succeeding Congress if a preceding Congress fails to perform its duty; but, whatever may be the right interpretation of the Constitution on that question, I think this is true: That at no time since the last decennial census has any proposition been presented to this House to reapportion this House on the same basis as that on which the 12 preceding reapportionments were made.

I repeat it: This House has not had an opportunity to vote—no Congress since 1920 has had an opportunity to vote—yes or no upon an apportionment bill that was based upon the theory and the manner and the method of reapportionment which characterized the 12 preceding reapportionments.

Now, the rank and file of the Members of the House are not responsible for that. Those who control the program of this House and determine what may be brought up and what may not be brought up are responsible for the failure of this House to discharge its constitutional duty.

Now, so much for that, except to say this: Every one of these proposals which have been submitted to me since the 1920 census has contained a proposal that I could not accept under my oath to support the Constitution. I think it is conceded by everybody that every one of these proposals, with possibly one exception, had a provision in it that was new and unusual, and that was conceded to give a partisan advantage to one party if enacted into law. The other bill carried with it a proposal which a great many able lawyers in this House were convinced was unconstitutional. I respected their opinion and I accepted their judgment, and for that reason I would not vote for that.

Now, what does this bill do? It is very ingeniously drawn. It may get around the charge that we are delegating the legislative authority of Congress to an executive bureau. Perhaps, though I doubt it, you may get around that charge, so far as the letter of the Constitution is concerned, but you do violate the spirit of the Constitution. When I took an oath to support the Constitution I meant the spirit of the Constitution as well as the letter.

Now, do not deceive yourselves. You are not going to deceive any other lawyer outside of this body that you are not mainly passing this bill for two reasons. One of them is that those of you who will be benefited by it think it is your best chance to get an increase for your States.

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

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

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

There was no objection.

Mr. WINGO. Then the rest of you say—as you have expressed it in private conversation—that you have gotten a little bit sore over being rawhided by a lot of cheap demagogues—most of whom would not know the Constitution from a vinegar recipe—abusing Congress because they think we have not discharged our constitutional duty. In other words, you are

going to be whipped into doing something which you are bound to admit violates the spirit of the Constitution.

What is going to be done when this becomes a law? The Constitution provides that the reapportionment of this House shall be by the positive, affirmative action of Congress, does it not? Under this bill the reapportionment of this House depends not upon the affirmative but the negative action of the Congress. It provides that unless the next Congress, after the 1930 census, shall undertake to discharge its constitutional function by affirmative action then a bureau chief shall take its place and discharge the constitutional duty of that Congress. In such event, will reapportionment come by the affirmative action of Congress? No. It will come by the negative action of Congress and, worse of all, by the affirmative action of a bureau chief, from whose decision there can be no appeal, save the judgment of the body that refuses to act. You may go off in that way if you want to and yield the prerogatives which affect the composition of this House itself to a bureau, but under my oath I can not do it.

Now, let us see what else. You take the amendment you have here, section b. If you will read section b you will find it makes possible for this House to have this reapportionment determined by the negative action not of Congress—I have discussed that—but the negative action of a bureau chief. If he fails to file a certain statement on the first day of the Congress, then the reapportionment will be one way; if he files it. it will be another way, and yet you tell me this does not violate the spirit of the Constitution? Well, I should hate to have my constitutional liberties depend upon the befuddled brain of a man who makes that kind of a distinction. [Applause.]

Gentlemen, chickens have a way of coming home to roost. I watched North Carolina; I watched some gentlemen from Texas and I watched some Members from Tammany Hall to-day go through the tellers. I am going to make the prediction that some of you gentlemen who voted that way from Texas, North Carolina, and New York City are going to have your chickens come home to roost during your lifetime and that you will see the day when this very bill will plague you instead of being a blessing to you. You can not trifle with the spirit of the Constitution without paying the price, and you are trifling with the spirit of the Constitution.

In conclusion let me give you my chief objection to the bill. It is an abject plea of cowardice and inefficiency upon the part of Congress. You by this bill say that Congressmen are either inefficient and incapable of discharging their constitutional duty or else they are too cowardly to do it. That is your confession, spread upon the record, when you vote for this bill. That is my judgment. You may differ with me and I am not going to abuse you, but remember what I say: Your chickens will come home to roost; they will come home to those of you who are voting for what you think is the selfish present interest of your State. You had better vote upon a question of this kind solely in the light of the Constitution and not permit your judgment to be swayed or your vote determined by the fact that a few Members may be gained for your States. [Applause.]

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

Mr. TILSON. Mr. Chairman, I rise in opposition to the pro forma amendment.

Mr. Chairman, I call the membership of this House to witness that during the last three years there have been three opportunities, including this one to-day, to vote on the question of reapportionment, so that there has been no dereliction on the part of anyone during this period or at any time, so far as I know, in attempting to bring this matter to a settlement.

What are the dangers we are now facing relating to reapportionment and how can these dangers be avoided? In the first place, I believe that we face the danger of having this House unduly enlarged in its membership and I think this danger should be obviated, if it can be done. We all recall the farewell statement of our beloved colleague from Ohio, Senator BURTON, when he stood on this floor and called the attention of the House to the danger of increased numbers in this chamber. He stated that in every decade since he had been a Member of this House the membership had been increased, and that each time it was increased it was with the promise that it should not be increased thereafter. By the perfectly fair and equitable method proposed in this bill we can obviate that danger.

What is another danger? We are in danger, if this bill be not passed by this Congress, of going on indefinitely without a reapportionment just as we have done for the last eight years. As we go on decade after decade the differences in the proportionate increase in population of the several States will become more and more exaggerated, and by reason of having no reapportionment at all we shall find ourselves drifting into a form of government which is not in any true respect a representative government.

What does this bill do? It simply provides that in case the next Congress shall fail to reapportion the membership of this House, by any method it may choose, upon the census taken in 1930, then the method provided in this bill shall be used automatically, the membership of the House shall continue to be 435, the same number the House now has, and with this number as a basis, the 435 members shall be allocated to the several States according to the population as found in the 1930 census.

What could be fairer even as a purely sporting proposition? Each Member ought to say, "I am willing to take the chance with my State and if we have not grown proportionately with the others, then we must abide the consequences." This is all that we say or do in this bill. We are not usurping the authority of any future Congress. We are not delegating to anyone any power except a purely ministerial one. We are not putting this matter beyond the recall of the next Congress; in fact, we are inviting that Congress to perform its duty under the Constitution as the members composing it may see fit; but if they fail to do it—and Congresses have failed to do their duty in this respect—if the next Congress shall fail to do its duty, then by this act we have provided a guaranty against the consequences that could otherwise flow from the failure of that Congress to do its duty. It seems to me that there could be no fairer proposition.

We are not only not attempting to usurp the power of a future Congress, we are not in any wise reflecting upon the patriotism or good judgment of those who may make up that Congress. In fact, we are relying upon them, in case what we do here to-day should prove to be wrong, to correct it, and by the very language of this bill we are inviting them to do so. However, if they for any cause should fail to perform this function, as previous Congresses have done, then what we may do here becomes a matter of great importance which will save future Congresses from the stigma of having failed to perform a perfectly plain constitutional duty. And there are difficulties in the way of performing this function, as we all know, so that we should not be too hard upon any past or subsequent Congress for quailing before these difficulties. It is not an easy matter to legislate one's self out of office or to deprive one's State of representation it has had hitherto. Sometimes, however, this must be done, unpleasant though it may be, and we in this bill provide as painless a method as it is possible to devise, in case there should be a failure to do it directly at the proper time. We have the satisfaction, too, that in providing this method we have furnished a guaranty that a fair apportionment will be made under the Constitution. [Applause.]

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

The question is on the committee amendment.

The committee amendment was agreed to.

Mr. FENN. Mr. Chairman, I wish to announce to the membership of the committee that as soon as sections 3, 4, 5, and 6 are read, section 6 being eliminated under the committee amendment, I propose to move that sections 3, 4, and 5, the remaining sections, be stricken from the bill.

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

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

The Clerk read as follows:

Amendment offered by Mr. DAVIS: Page 2, line 13, after the word "transmitted," insert the words "and also the succeeding Congress," so that as amended the lines will read:

"SEC. 2 (a). If the Congress to which the statement required by section 1 is transmitted, and also the succeeding Congress, fails to enact a law apportioning the Representatives among the several States"—

And so forth.

Mr. DAVIS. Mr. Chairman and members of the committee, to my mind, and I think to the minds of a great many Members of the House, one of the objectionable features of the pending bill is that it ties the hands of the next Congress and only allows the next Congress the short session within which to untie its hands.

I think this is undoubtedly unfair, certainly to the next Congress, and whatever may be the will of that Congress, we know the very great difficulties of enacting any kind of controversial legislation or new legislation during the brief period of three months of the short session of Congress, and the report of the Secretary of Commerce with respect to the census is not to be made to the Congress until the first day of the second session of the Seventy-first Congress and each subsequent fifth Congress.

There are many things which may occur to prevent legislation from being enacted into law, no matter how diligent the House may be to perform its duty and to exercise its constitutional function, if its opportunity to legislate is restricted to this brief period. For instance, after the 1920 census, at the first opportunity the House of Representatives passed a reapportionment bill fixing the number of Members at 435, but this bill died in the Senate. The House had done its full constitutional duty, as much as it was possible for it to do, and yet the bill failed of passage because of a situation over which the House had no control. This same thing may occur again. It might even be passed by the House and pigeonholed in a committee at the other end of the Capitol; even the other branch of Congress might not have an opportunity to vote upon it.

A rule might not be obtained for the consideration of a bill in the House. The Rules Committee or the chairman of the Rules Committee of the House might prefer for the reapportionment to be made by the Secretary of Commerce rather than the next Congress which, under the Constitution, has the right and ought to have the right to pass a reapportionment bill.

We know how easy it is—we have witnessed so often how easy it is—to smother or to defeat legislation during the short session. Why, the committee could not even begin hearings; they could not prepare a bill; they could take no action whatever until after the report of the census. Then they would hold hearings, and there might be filibustering in the committee. It might be that the committee was so formed that a majority of them would be opposed to action, although if they had the opportunity the membership of the House might, by an overwhelming vote, perform their duty if given an opportunity.

Mr. BURTNESS. Will the gentleman yield?

Mr. DAVIS. Yes.

Mr. BURTNESS. Does the gentleman really believe it was ever contemplated by this measure that the Congress which gets this information is to take any action? Is not the legislation rather for the purpose of preventing action by that Congress?

Mr. DAVIS. That may be the purpose of it; but if it is, it is an improper purpose. I have no patience with this continual surrender of its authority by Congress.

I think we should certainly give the next Congress and future Congresses a reasonable opportunity to act, and that is all this amendment does. It does not change the other provisions of the bill. It would still mean that if the second session of the Seventy-first Congress or the ensuing Congress does not pass a reapportionment bill, the provisions of this bill will go into effect, and the Secretary of Commerce will make the apportionment. To delay it a few months or even a year or two longer would be no more than has been done during many istances in the past, and I think this is an amendment to which any Member, in the interest of fairness, in the interest of courtesy to succeeding Congresses, out of consideration for the Constitution, can well afford to agree, regardless of how he may feel on the subject of reapportionment. [Applause.]

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

Mr. FENN. Mr. Chairman, I ask unanimous consent that all debate upon this section and all amendments thereto be now closed.

Mr. BURTNESS. Oh, no; I have an amendment which I wish to offer.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that debate on this section and all amendments thereto be now closed. Is there objection?

Mr. LETTS. I object.

Mr. BLACK of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, Chief Justice Taft has been forced by prevailing social conditions to call for a war on crime. Yet in this paramount lawmaking body we find Members insisting on breaking the Constitution in self-interest. Congress should set a better example. We do not want a congressional underworld made up of parliamentary racketeers. Congress has repeatedly refused to reapportion, and in fact we are fourth offenders, subject to life imprisonment under the Baumes laws. [Laughter.]

The logic of dry nullifiers of the apportionment section is baffling. Here is a plain constitutional mandate easy and inexpensive of enforcement. Also, it is popular. But they refuse to follow it. But to them the unpopular, costly, and impossible eighteenth amendment is sacrosanct. They do not want to delegate nondiscretionary power to a Secretary of Commerce. Yet he is an oath-bound public official. But time and again they have surrendered all their official powers to the unofficial scavenger, the Anti-Saloon League. [Laughter.] Some of the farm bloc oppose redistricting, but there is a certain amount of farm relief in cutting down the surplus of farm orators here who send canned speeches back to the sticks that are not even good for fertilizer. Probably we could put an equalization fee in it, and it would pass unanimously if amended to provide that any Congressman who loses his job as a result of the bill would get a life pension of $10,000 per annum. [Laughter and applause.]

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

The question was taken; and on a division (demanded by Mr. DAVIS) there were 88 ayes and 117 noes.

So the amendment was rejected.

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

The Clerk read as follows:

On page 2, line 12, strike out all of section 2.

Mr. BURTNESS. Mr. Chairman, the purpose of the amendment is very plain. If adopted, section 1 will remain, still leaving a complete bill so far as furnishing the information is concerned that would be sent to the second session of the next Congress, so that it might do its constitutional duty in providing for an apportionment after they have got the information disclosed by the 1930 census.

The point I want to emphasize to you this afternoon—and I do not think it has been emphasized sufficiently in the course of the debate—is that the theory of the makers of our Constitution was not that one Congress should provide a method of apportionment for all Congresses in the future, but on the other hand the theory was that every 10 years there should be an enumeration to be followed by apportionment. The first step to be taken was an enumeration and following that, in the light of facts disclosed thereby, the theory was that the next Congress would pass an apportionment measure in accordance with the facts disclosed by such enumeration.

Now, as has been stated so often here to-day and yesterday, this bill is not an apportionment on the information we have, or an apportionment to go into effect now upon the last census. It is an apportionment to take effect after the next census to be conducted in 1930. In other words, it is the most perfect case of putting the cart before the horse that could ever be suggested. [Applause.]

The theory in all legislation is, or ought to be, that we should first determine the facts and then in the light of the facts enact a proper law to do justice to all concerned.

But here you attempt to pass the law first, not knowing what the facts are about to be disclosed, and then you hope that the bill will do justice in the light of the facts.

The proponents say, "Oh, yes, but the Seventy-first Congress in its short session will have an opportunity to rewrite the law if it is not then shown to be right, if it does not prove to be what the majority of the membership of the House and the Senate want. The gentleman from Tennessee pointed out the unfairness of that argument for action is limited to the short session, and I think the Members who support the bill ought to be frank enough to say to the House that it is the intent of the bill, not to give an opportunity to pass a new law in the second session of the Seventy-first Congress, but to use this bill, if it becomes a law, to prevent action.

Mr. STEVENSON. Will the gentleman yield?

Mr. BURTNESS. Yes; I yield.

Mr. STEVENSON. I direct the gentleman's attention to the fact that that will be a lame duck session, the same as this.

Mr. BURTNESS. Yes; it will be a lame duck session lasting only three months, just as this is into which this legislation has been injected in spite of the fact that the very question has been turned down by this same Congress by a fair majority in last session. In any event from a viewpoint of time alone it is an unfair proposal that the committees can do the required work and hope to get a controversial law through both Houses under conditions always existing in the short session.

The greatest objection of all that I have to it is the power that it puts into the hands of a few men to prevent action in the short session of the Seventy-first Congress. We all know that even now under the best conditions a minority can block legislation. That is the case now, it is true, but when you take away the tremendous impetus there would be in this country in favor of an apportionment in the absence of legislation—for if you had no such law on the statute books there would be an impetus for those who are here to pass legislation in the Seventy-first Congress—if you put this sort of an automatic law on the statute books, what situation will you have? There will be a lot of people who will say, "Oh, well, there is no use of bothering about it or of seeing what the census shows now, because we can get along all right under this automatic law; let us not bother about a new law"

The Census Committee by a unanimous vote might even report out a bill satisfactory to a large majority of the Members of the House and satisfactory to the country; yet, if you have this automatic law on the statute books you will find that it would

be possible for a majority of 1 on the Committee on Rules to prevent consideration of that bill, falling back on the argument to let the automatic apportionment take effect. Not only is that power given, if you please, to what might be a majority of 1 upon the Rules Committee of this House under circumstances of that sort—and the illustration I have given is not a remote one—but, of course, a similar power is given to just two or three Members in the body at the other end of the Capitol, if they should desire to filibuster against such a bill in the short session. I think we have in recent years had enough experience to know what the powers of two or three filibustering Senators are in the Congress of the United States under the present rules of the Senate, so that we here at this end of the Capitol ought not to be willing by our votes to increase those powers to prevent enactment of legislation we pass, and we should be willing to undertake at the proper time the duties that the founders of the Constitution intended should evolve upon the first Congress following each separate enumeration that is made. How ridiculous it must seem to anyone who pays any attention to the Constitution to realize that we are trying to legislate apportionment measures not only for the Seventy-first Congress but for the Congress which will be the first one after the 1940 census, and the first one after 1950, 1960, and so on down through the decades and through the years, for, if the political situation should be such that a change can not be made, or if a few men insist upon wielding the tremendous power this automatic law gives them, then such will be the result.

The CHAIRMAN. The time of the gentleman from North Dakota has expired. The question is on the amendment offered by the gentleman from North Dakota to strike out the section.

The question was taken; and on a division (demanded by Mr. BURTNESS) there were—ayes 99, noes 125.

So the amendment was rejected.

The Clerk read as follows:

SEC. 3. In each State entitled under this act to more than one Representative, the Representatives to which such State may be entitled in the Seventy-third and each subsequent Congress shall be elected by districts equal in number to the number of Representatives to which such State may be entitled in Congress, no one district electing more than one Representative. Each such district shall be composed of contiguous and compact territory and contain as nearly as practicable the same number of individuals.

Mr. FENN. Mr. Chairman, I move to strike out the section.

The amendment was agreed to.

The Clerk read as follows:

SEC. 4. In the election of Representatives to the Seventy-third or any subsequent Congress in any State which under the apportionment provided for in section 2 of this act is given an increased number of Representatives, the additional Representative or Representatives apportioned to such State shall be elected by the State at large, and the other Representatives to which the State is entitled shall be elected as theretofore, until such State is redistricted in the manner provided by the laws thereof, and in accordance with the provisions of section 3 of this act.

Mr. FENN. Mr. Chairman, I move to strike out the section.

The amendment was agreed to.

The Clerk read as follows:

SEC. 5. In the election of Representatives to the Seventy-third or any subsequent Congress in any State which under the apportionment provided for in section 2 of this act is given a decreased number of Representatives, the whole number of Representatives to which such State is entitled shall be elected by the State at large until such State is redistricted in the manner provided by the laws thereof, and in accordance with the provisions of section 3 of this act.

Mr. FENN. Mr. Chairman, I move to strike out the section.

The amendment was agreed to.

The Clerk read as follows:

SEC. 6. Candidates for Representatives at large shall be nominated, unless the State concerned shall provide otherwise, in the same manner in which candidates for governor in that State are nominated.

With the following committee amendment: Strike out all of section 6.

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

The amendment was agreed to.

The CHAIRMAN. Under the rule the committee automatically rises at the conclusion of the consideration of the bill.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CHINDBLOM, 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. 11725) for the apportionment of Representatives in Congress 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.

The SPEAKER. Under the rule the previous question is ordered on the amendments and bill to final passage. The question is on agreeing to the amendments.

The amendments were agreed to.

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

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

Mr. RANKIN. Mr. Speaker, I offer the following motion to recommit.

The Clerk read as follows:

Mr. RANKIN moves to recommit the bill (H. R. 11725) to the Committee on the Census with instructions to report the same back forthwith with the following amendments: Strike out all after the enacting clause and insert the following:

"That on the first day of the second regular session of the Seventy-first Congress, the Secretary of Commerce shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under the 1930 census of the population and the number of Representatives to which each State would be entitled under an apportionment of 435 Representatives, made in the following manner: By apportioning the 435 Representatives among the several States according to their respective numbers as shown by such census, no State to receive less than one Member.

Mr. FENN. Mr. Chairman, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the motion to recommit.

Mr. RANKIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 135, nays 227, answered "present" 1, not voting 65, as follows:

[Roll No. 11]

YEAS—135

Adkins	Elliott	Knutson	Rankin
Almon	Eslick	Kopp	Rayburn
Arnold	Fisher	Kurtz	Reed, Ark.
Aswell	Fitzpatrick	Langley	Robinson, Iowa
Ayres	Fulbright	Lankford	Robsion, Ky.
Bankhead	Fulmer	Letts	Romjue
Bland	Gambrill	Lowrey	Rowbottom
Brand, Ohio.	Gardner, Ind.	Lozier	Rutherford
Brigham	Garrett, Tenn.	McDuffie	Sandlin
Browning	Gibson	McReynolds	Sears, Nebr.
Burtness	Gilbert	McSwain	Shallenberger
Busby	Gregory	Major, Mo.	Sinclair
Byrns	Greenwood	Manlove	Spearing
Cannon	Griffin	Mansfield	Sproul, Kans.
Chapman	Guyer	Martin, La.	Steagall
Christopherson	Hall, Ill.	Menges	Steele
Cochran, Mo.	Hall, Ind.	Milligan	Stevenson
Cole, Iowa	Hall, N. Dak.	Montague	Strong, Kans.
Collier	Hare	Moore, Va.	Taber
Collins	Harrison	Moorman	Tarver
Combs	Haugen	Morehead	Thatcher
Connally, Tex.	Hill, Ala.	Morin	Thurston
Cox	Hogg	Morrow	Updike
Crisp	Hope	Nelson, Mo.	Vincent, Iowa
Davis	Houston, Del.	Norton, Nebr.	Vinson, Ga.
Deal	Howard, Nebr.	O'Connor, La.	Vinson, Ky.
DeRouen	Huddleston	Oldfield	Welsh, Pa.
Dickinson, Iowa	Hudspeth	Oliver, Ala.	Whitehead
Dickinson, Mo.	Hull, Tenn.	Palmisano	Whittington
Dominick	Jeffers	Parks	Williams, Mo.
Dowell	Johnson, Ind.	Peery	Wilson, La.
Drewry	Kemp	Quin	Wingo
Driver	Kent	Ragon	Wright
Edwards	Kincheloe	Ramseyer	

NAYS—227

Abernethy	Briggs	Cooper, Wis.	Fitzgerald, Roy G.
Ackerman	Britten	Corning	Fitzgerald, W. T.
Aldrich	Buchanan	Crail	Fort
Allen	Buckbee	Cramton	Foss
Andresen	Bulwinkle	Crosser	Frear
Andrew	Burdick	Crowther	Free
Auf der Heide	Butler	Cullen	Freeman
Bacharach	Campbell	Dallinger	French
Bacon	Carew	Darrow	Furlow
Barbour	Carley	Davenport	Garber
Beck, Pa.	Carss	Davey	Garrett, Tex.
Beck, Wis.	Carter	Dempsey	Gifford
Beedy	Cartwright	Doughton	Glynn
Beers	Chalmers	Douglas, Ariz.	Goodwin
Begg	Chase	Doutrich	Graham
Berger	Chindblom	Drane	Green
Black, N. Y.	Clague	Dyer	Hadley
Black, Tex.	Clarke	Eaton	Hale
Bloom	Cochran, Pa.	England	Hammer
Bohn	Cohen	Englebright	Hancock
Bowles	Cole, Md.	Estep	Hardy
Bowman	Colton	Evans, Calif.	Hastings
Box	Connery	Fenn	Hersey
Boylan	Connolly, Pa.	Fish	Hickey

Hill, Wash.	Lea	O'Connell	Sullivan
Hoch	Leavitt	Oliver, N. Y.	Sumners, Tex.
Hoffman	Lehlbach	Parker	Swank
Holaday	Lindsay	Peavey	Swick
Hooper	Linthicum	Perkins	Swing
Hudson	Luce	Porter	Tatgenhorst
Hughes	Lyon	Pou	Thompson
Hull, Morton D.	McClintic	Prall	Tilson
Hull, William E.	McCormack	Purnell	Timberlake
Igoe	McFadden	Rainey	Tinkham
Irwin	McKeown	Ransley	Treadway
Jacobstein	McLaughlin	Reece	Underhill
James	McLeod	Reed, N. Y.	Underwood
Jenkins	Maas	Reid, Ill.	Vestal
Johnson, Ill.	Magrady	Rogers	Vincent, Mich.
Johnson, Okla.	Major, Ill.	Sabath	Wainwright
Johnson, S. Dak.	Mapes	Sanders, N. Y.	Wason
Johnson, Tex.	Martin, Mass.	Sanders, Tex.	Watres
Johnson, Wash.	Mead	Schafer	Watson
Jones	Merritt	Schneider	Weaver
Kading	Michaelson	Sears, Fla.	Welch, Calif.
Kahn	Michener	Seger	White, Me.
Kearns	Miller	Selvig	Wigglesworth
Kelly	Mooney	Shreve	Williams, Ill.
Kendall	Moore, N. J.	Sirovich	Williams, Tex.
Ketcham	Moore, Ohio	Smith	Wolverton
Kiess	Morgan	Snell	Woodruff
Korell	Murphy	Somers, N. Y.	Wurzbach
Kvale	Nelson, Me.	Sproul, Ill.	Wyant
LaGuardia	Nelson, Wis.	Stalker	Yates
Lampert	Newton	Stedman	Yon
Lanham	Niedringhaus	Stobbs	Zihlman
Larsen	Norton, N. J.	Strong, Pa.	

ANSWERED "PRESENT"—1

Simmons

NOT VOTING—65

Allgood	Denison	Leatherwood	Temple
Anthony	Dickstein	Leech	Tillman
Arentz	Douglass, Mass.	McMillan	Tucker
Bachmann	Doyle	McSweeney	Ware
Bell	Evans, Mont.	Monast	Warren
Blanton	Fletcher	Moore, Ky.	Weller
Boies	Garner, Tex.	O'Brien	White, Colo.
Brand, Ga.	Gasque	O'Connor, N. Y.	White, Kans.
Browne	Golder	Palmer	Williamson
Bushong	Goldsborough	Patterson	Wilson, Miss.
Canfield	Griest	Pratt	Winter
Casey	Hawley	Quayle	Wolfenden
Celler	Howard, Okla.	Speaks	Wood
Clancy	Kerr	Strother	Woodrum
Cooper, Ohio	Kindred	Summers, Wash.	
Culkin	King	Taylor, Colo.	
Curry	Kunz	Taylor, Tenn.	

So the motion to recommit was rejected.

Mr. CONNERY. Mr. Speaker, my colleague Mr. DOUGLASS is unable to be present and asked me to state that if he were here he would vote "no."

Mr. SIMMONS. Mr. Speaker, the wife of the gentleman from Pennsylvania, Mr. LEECH, is seriously ill in the hospital, and he wanted to go home and still be recorded as voting for this bill. I agreed to pair with him in the event that he could not come back. Accordingly I desire to withdraw my vote of "aye" and answer "present" in order that his vote in favor of the bill may be recorded.

The Clerk announced the following pairs:

To recommit:

Mr. Ware (for) with Mr. Wolfenden (against).
Mr. Moore of Kentucky (for) with Mr. Howard of Oklahoma (against).
Mr. Kindred (for) with Mr. Casey (against).
Mr. Adkins (for) with Mr. Kerr (against).
Mr. Simmons (for) with Mr. Leech (against).
Mr. Brand of Georgia (for) with Mr. Clancy (against).
Mr. Goldsborough (for) with Mr. Denison (against).
Mr. Patterson (for) with Mr. Warren (against).
Mr. White of Kansas (for) with Mr. Curry (against).
Mr. Woodrum (for) with Mr. Celler (against).
Mr. Gasque (for) with Mr. Dickstein (against).
Mr. Leatherwood (for) with Mr. Bachmann (against).
Mr. Allgood (for) with Mr. Weller (against).
Mr. Canfield (for with Mr. Quayle (against).
Mr. McMillan (for) with Mr. Doyle (against).
Mr. Tillman (for) with Mr. Kunz (against).
Mr. Tucker (for) with Mr. Temple (against).

General pairs:

Mr. Hawley with Mr. Garner of Texas.
Mr. Wood with Mr. O'Connor of New York.
Mr. Browne with Mr. Bell.
Mr. Cooper of Ohio with Mr. Douglass of Massachusetts.
Mr. Griest with Mr. Lankford.
Mr. Speaks with Mr. Taylor of Colorado.
Mr. Williamson with Mr. Evans of Montana.
Mr. King with Mr. Blanton.
Mr. Golder with Mr. Fletcher.
Mr. Arentz with Mr. Wilson of Mississippi.
Mr. Pratt with Mr. McSweeney.
Mr. Summers of Washington with Mr. White of Colorado.
Mr. Taylor of Tennessee with Mr. O'Brien.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken and the bill was passed.

On motion of Mr. FENN, a motion to reconsider the vote by which the bill was passed was laid on the table.

ADJOURNMENT UNTIL MONDAY

Mr. TILSON. Mr. Speaker, the last two days have been somewhat strenuous for most of us. Almost the entire membership of the House has been on the floor constantly. I am sure that the correspondence of Members and other necessary business has accumulated during this time, sorely needing attention. I therefore ask unanimous consent that when the House adjourns to-day it adjourn to meet on Monday next.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that when the House adjourns to-day it adjourn to meet on Monday next. Is there objection? [After a pause.] The Chair hears none.

REAPPORTIONMENT

Mr. ZIHLMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. ZIHLMAN. Mr. Speaker, I realize that many Members have given generously of their time to bring the reapportionment issue to a successful termination, and I am sure we are all grateful to them. However, there is one Member whom I know particularly well, and I know that he has contributed more than anyone else by his untiring efforts, his indomitable spirit in the face of continuous and successive setbacks, his uniform courtesy, his bulldog tenacity to carry through what is perhaps the most delicate and difficult bill to handle in a legislative body, and I therefore think that the gentleman from Michigan [Mr. MCLEOD] is entitled to the thanks of the House and the country.

WITHDRAWAL OF PAPERS

Mr. CROWTHER. Mr. Speaker, I ask unanimous consent to withdraw from the files of the House the bill and papers in the case of H. R. 9303.

The SPEAKER. The gentleman from New York asks unanimous consent to withdraw from the files of the House the bill and papers in the case of H. R. 9303. Is there objection?

Mr. GARRETT of Tennessee. Reserving the right to object, do I understand it was to withdraw the bill and papers?

Mr. CROWTHER. Yes, sir. I mean such papers that are connected with the legislation. I do not want to withdraw the bill.

The SPEAKER. The gentleman from New York asks unanimous consent to withdraw the papers in connection with the bill H. R. 9303.

Mr. CHINDBLOM. The bill never having been reported?

Mr. CROWTHER. And no adverse action thereon.

REAPPORTIONMENT

Mr. GRIFFIN. Mr. Speaker, I ask unanimous consent to extend my remarks on the bill just passed.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

Mr. GRIFFIN. Mr. Speaker, the bill just passed has been acclaimed as an act of contrition for past sins and omissions. That might have been the intent, but it is a futile gesture.

No reapportionment was made after the 1920 census, and four Congresses have allowed their plain duty under the Constitution to remain unfulfilled and disregarded.

The general idea now seems to be that if the action of the House is confirmed by the Senate and approved by the President we are going to have an immediate reapportionment, thereby remedying the grievous underrepresentation of many of the States.

This is, of course, a false hope, a misleading mirage. A reapportionment made to-day on the 1920 census—the only census on which the present Congress has the constitutional right to legislate—would be no more equitable than the apportionment on the 1910 census, on which the present representation is based, and would be absolutely valueless. It could only affect the 1930 elections and would have to be predicated on guesswork as to the probable population of the States in that year.

The fact is that Congress has neglected its duty too long and it is now too late to make amends.

This bill is not only a futile gesture, but those who are responsible for it are guilty of arrogant effrontery, inasmuch as they undertake to instruct and bind the next Congress as to duties which they themselves have so long and so flagrantly neglected.

The census of 1930 will determine the population of the States. Under the Constitution, interpreted by every known rule of legal construction, the duty falls on the Congress then in session to make a reapportionment so as to be effective in the 1932 congressional elections.

It is not our place to tell future Congresses what to do or how to do it. The law we have just passed is not worth the paper

it is written on. It can have no effect on the next Congress except to spur them, perhaps, to repeal it as a piece of meddlesome impertinence.

Nor is it necessary to bring into action the instrumentality of a Cabinet officer to make a simple arithmetical calculation. Everyone knows that when the population of the States is known it is a very simple matter to ascertain the number of Representatives to which each shall be entitled, whether the House stands at 435 or any other number.

And here, again, the meddlesomeness of this measure is made even more manifest. Although I believe that a House of 435 Members is ample, I assert that we of this Congress have no more right to bind the next Congress in that regard than we have to force them to accept our notion as to how the apportionment shall be made.

The sum total, then, of our work on this bill is to tell the next Congress what we think about the subject, an opinion which is utterly gratuitous and impertinent and of no more binding force than the expression of our opinion as to what ought to be the size of the appropriation for the Army in 1932.

The bill as reported from committee was a legislative monstrosity. It gave the small States two Representatives where their population only entitled them to one. Owing to the discernment of the gentleman from Kansas [Mr. HOCH], supported by the gentleman from Massachusetts [Mr. STOBBS], by the gentleman from New York [Mr. DEMPSEY], and by the gentleman from Tennessee [Mr. GARRETT], this preposterous situation was discovered in time and was corrected by an amendment of the gentleman from Michigan [Mr. CRAMTON].

The committee itself consented to the striking out of sections 3, 4, 5, and 6 containing other arrogant usurpations, among which was the provision which would have required Congressmen to be elected "at large" in three-fourths of the States in the elections of 1932, thus making the representation dependent largely on the political results in particular States—a cheap political device which would have wiped out all minority representation.

By the amputation on the floor of these obnoxious features the monstrosity was made less odious, but it nevertheless goes over to the Senate a hopeless cripple.

In conclusion, I feel constrained to express the regret that I was prevented, owing to the peculiar parliamentary situation, from having the opportunity to record my vote in opposition to the bill in toto. I voted at first against the motion to recommit, but when I learned that a gentlemen's agreement had been entered into—by the leaders among the proponents and the opponents of the bill—not to have a roll call on the final passage—an arrangement which precluded the ascertainment of the real sentiments of the House on the bill itself—I changed my vote to the affirmative in order to express, even though thus indirectly, my opposition to the entire proposal.

If the final roll call had been taken, I would have allowed my negative vote on the motion to recommit to stand, and I would have likewise voted "no" on the bill itself. I am satisfied that many Members of the House, who, like myself, were opposed to the bill, would have done likewise in order to express their opposition to the extension of the dangerous innovation of Congress delegating its powers of apportionment to a Cabinet officer, and in order to emphasize as well their hostility to the novel theory that any one Congress has the right to usurp the constitutional obligations of future Congresses.

ROSTER OF ARMIES OF CIVIL WAR

Mr. DAVIS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting a letter received by me from The Adjutant General of the War Department giving certain information relative to the compilation of records of both the Federal and Confederate soldiers engaged in the Civil War.

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

There was no objection.

Mr. DAVIS. Mr. Speaker, under the leave granted, I herewith extend my remarks in the RECORD by inserting a letter received by me from The Adjutant General of the War Department giving information in regard to the compilation of the records of both the Federal and Confederate soldiers engaged in the war between the States, and the matter of the publication of such records, as follows:

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington, January 8, 1929.

Hon. EWIN L. DAVIS,
House of Representatives.

MY DEAR MR. DAVIS: I have your letter of December 22, 1928, referring to the matter of compilation by the War Department of all Confederate records. You ask whether this work has been completed, and if not, when it may be expected that it will be completed, and also whether any steps have been taken toward the publication of these records, and, if not, what would be the probable cost of such publication.

Prior to the World War considerable progress had been made in carding by the index-record-card system the Confederate records in my office, but at about the time of the beginning of the World War it was found necessary to temporarily discontinue the work, and partly on account of the exigencies of the war, and partly by reason of the inadequate clerical force allowed my office by law, it had not been found possible to resume it until Congress in April, 1926, saw fit to make an appropriation of $70,000 for that purpose.

This appropriation, which became available July 1, 1926, was sufficient for the compilation as originally contemplated and estimated for but about January 4, 1927, it was deemed advisable to investigate some Confederate records which were in storage for a number of years and which had been previously considered of no value for compilation. These additional records caused such an added burden that the work could not be completed by June 30, 1927, as intended, and the original plan had to be modified to insure that each name should be carded and arranged alphabetically so as to be searchable. Since that time the various refinements of the work have been carried on as routine under the regular appropriation, and at the present time all the information on file relative to the records of Confederate soldiers is readily available.

It has been taken for granted that a published roster of the armies of the Civil War would include both Union and Confederate soldiers and no estimate has ever been made of the cost of publishing a roster of the Confederate forces alone.

However, at a hearing before the Subcommittee of House Committee on Appropriations, Seventieth Congress, first session, in connection with publication of the Union and Confederate records it was brought out that—

"By printing the data straight across the page, arranged under regimental heading, without boxes, using abreviations, and eliminating all but the most essential data, as—'One Hundred and Second New York Volunteer Infty.'"

* * * * * * *

Appler, L. V., pvt., Co. F, enl. Sep. 3, '62, at New York, m. i. Oct. 18, '62, wounded Port Hudson, La., June 14, '63, m. o. Oct. 12, '65.

Ninety-eight volumes of approximately 1,000 pages each would be required for both the Union and Confederate rosters.

The initial cost of composing, printing, and binding is estimated at $16 a page, or $1,568,000 for the 98 volumes. The additional printing cost would depend upon the number of volumes distributed free and the binding used. Based on the selling price by the Superintendent of Documents of similar publications, each paper-bound volume would cost about $1.50, or $147 for the set.

If the names were arranged by regiments and States, an index would be required. The index would require about two-fifths of the space of the roster itself, increasing the printing cost about $627,200.

The cost of preparing the copy for the printer, checking and making adjustments when discrepancies in original records are found, and compiling the index would cost not less than $2,000,000.

The total cost would be not less than $4,500,000.

However, for a fuller discussion of the subject, attention is invited to pages 99 to 102, inclusive, of part 1 of "Hearings before the subcommittee of House Committee on Appropriations" containing testimony on title 1 of the bill comprising the military activities of the War Department, published at the United States Government Printing Office in 1928.

Very respectfully,

C. H. BRIDGES,
Brigadier General,
Acting The Adjutant General.

LEAVE TO PRINT ON THE APPORTIONMENT BILL

Mr. TILSON. Mr. Speaker, a number of Members have spoken to me in reference to extending their remarks in the RECORD on the bill just passed. It is an important measure, and during the debate there was not opportunity for everyone to speak who wished to speak. I therefore ask unanimous consent that for three legislative days Members may extend their own remarks in the RECORD on the bill just passed.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that for three legislative days Members may extend their remarks in the RECORD on the apportionment bill. Is there objection?

Mr. CHINDBLOM. Reserving the right to object, Mr. Speaker, that would be counting three days from Monday?

Mr. TILSON. Three legislative days from Monday next.

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

There was no objection.

REAPPORTIONMENT

Mr. COCHRAN of Missouri. Mr. Speaker, in opposing this bill I am following the same course I took in the last session. My opposition is based solely upon the provision which delegates to an executive department, the Secretary of Commerce, the head of the department being a political appointee, power vested in the Congress under the Constitution. I am unwilling to leave this important question in the hands of any one man, but stand ready now to vote for reapportionment on the basis of the 1920 census and pledge my vote in the Seventy-first Congress to reapportionment based on the 1930 census. This should be evidence I am not in opposition to reapportionment, even though my State will lose three or four members.

By 1930 we will find 23,000,000 people are without proper representation in this body. On the basis of the census of 1920 it is estimated 13,000,000 have been deprived of proper representation due to the failure of Congress to carry out its constitutional duty.

The rural communities have at present a representation in the Congress to which they are not entitled. If the Congress will not reapportion now, I am sure the country will demand immediately after the 1930 census is taken that a reapportionment bill be passed, and although, as I stated in the last session, it means not only my retirement as a Member of this House but also the loss of three or four Members to my State my vote will be cast for the bill.

I further agree to vote to retain the present membership, 435, and will so vote whenever an opportunity presents itself, but I will not approve of the transfer of authority vested solely in Congress by the Constitution to an executive official, no matter who the official might be.

Mr. SINCLAIR. Mr. Speaker, the measure now under consideration purports to be an apportionment bill for the House of Representatives. As a matter of fact, however, it is not an apportionment bill at all. Briefly, it is a bill which, if enacted into law, will limit the size of the House of Representatives to 435 Members for all future time.

The occasion for this legislation lies in the fact that Congress is expected, under the Constitution, to make an apportionment of its Members after each decennial census. This was not done after the 1920 census, although several attempts were made, and several votes taken on the question by the House. I think I may say the reason no definite action was taken lay in the fact that Members generally felt that the 1920 census followed too closely upon the conclusion of the World War, and that the population was not in a normal state as to location. It was thought that an apportionment under these conditions would be unfair to certain States. This was especially true of regions largely agricultural.

Certain industrial cities, whose population had grown greatly during the war, were disappointed by the failure of Congress to reapportion under the 1920 census. They saw an opportunity to gain in congressional representation. Their newspapers started a hue and cry of criticism of Congress, and this measure now under consideration is the direct response to that agitation. But since the measure before us does not even assume to apportion on the population as disclosed by the 1920 census, it does not meet the constitutional requirements, and in my judgment is but an empty gesture to deceive the people.

The one branch of the Federal Government directly responsible to the people, and receiving its authority from them every two years, is the House of Representatives. It is the people's legislative forum. Its rights and authority should be kept inviolate in a democracy. It is answerable to the people for its actions every two years. It is truly representative. Now, this measure not only is not a true apportionment bill but is an effort to curtail representative self-government in the future. Briefly, the only important provision of the bill is that the Secretary of Commerce shall apportion the membership of the House among the several States after the 1930 census, basing it upon a total of 435 Representatives, provided that the Congress fails to do so in the next succeeding session. This failure to apportion may be no fault of the House; it may result from many causes over which it has no control. The House may pass a bill in good faith only to see it fail in the Senate, due to a congested calendar or a filibuster. That most likely would be the result. It has recently happened with other important legislation. The proponents of this measure, aware of the difficulties in passing all such legislation, no doubt purposely provided that the apportionment following the 1930 census shall be made by Congress in the second session—the short session, when legislation is always in a jam. Very probably no legislation on apportionment will result. Then that function will be performed by the Secretary of Commerce, a branch of the executive.

Mr. Speaker, a bill of this nature goes to the very heart of popular government. It gives to an executive bureau the right to determine how many Members a State shall have to represent it in the House of Representatives. It is a curtailment of the rights and powers of a future House that inherently belongs to it under the Constitution. It strengthens the power of the executive branch of our Government at the expense of the legislative. It gives to an executive officer, answerable to no one, authority and power that might even threaten and destroy the life of the legislative body. Under its provisions there is nothing to hinder a dishonest officer from not only manipulating the census returns but also from allocating illegally the just representation to which each States is entitled under that result. It might be done and would not be subject to review by this House.

Further, the Seventy-first Congress might pass an apportionment bill that the President would veto. It might attempt to repeal the law now proposed only to meet with the same action. The power to perform this function of apportioning the Members of the House would still legally rest with a department bureau unless a two-thirds majority were obtained in both House and Senate to pass it over the President's veto. We are, therefore, in passing this measure imposing upon a future House an added burden in performing its constitutional duty. We are robbing it of a part of its authority upon the question of apportioning its own Members. Instead of a majority performing that function we are imposing a condition that may require a vote of two-thirds. Therefore in actual legislative practice we are passing a law that will for all future time do away with all apportionment legislation by the Congress and delegate that function to a bureau chief. In other words, we are repealing the Constitution upon that question.

Mr. Speaker, this measure is a delegation of an inherent political right of this House to an executive department. It is a loss to the legislative, and an encroachment by the executive, branch.

Many Members are supporting this bill in the belief that the Constitution calls for reapportionment. The Constitution does provide for reapportionment, but not for reapportionment on the basis of a census which has not yet been taken. Quite aside from the arguments against the enactment of this legislation already set forth, I am wondering whether these Members, and particularly those from the agricultural sections, have considered fully what the effects are going to be as regards the just representation of agriculture in this body. It is well known that there is a large floating population in the large cities. There are also many aliens, and literally hundreds of thousands who are either not eligible to vote or who take no interest in their Government. All of these can, and no doubt will, be counted in the taking of the census. It does not require a great deal of foresight to understand that this will work to the disadvantage of the agricultural States with their population of home owners and others of practically permanent residence. We all know that since the World War agriculture has been struggling for its very existence. Its economic standing and population have suffered the greatest losses in its history. It is now proposed, before it has had a chance to recover, to permanently limit its representation in Congress. In other words, the sturdy pioneers and home builders of the food-producing areas are, by the passage of this legislation, to be penalized in favor of the voteless aliens, tourists, and other transients of industrial centers and winter-resort States. I am opposed to this usurpation of authority over a future Congress and to this unjust discrimination against the farmers of the country.

Mr. HASTINGS. Mr. Speaker, this is a bill for the apportionment of Representatives in Congress. I am in favor of it for a number of reasons:

First. I think that the Constitution of the United States clearly intended that such a bill should be enacted immediately after the taking of each decennial census. The pertinent parts of the Constitution are as follows:

CONSTITUTIONAL PROVISIONS AFFECTING REAPPORTIONMENT

Article I, section 2, clause 3:

"The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of 10 years, in such manner as they shall by law direct."

Article I, section 4, clause 1:

"The time, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators."

Article I, section 8, clause 18:

"The Congress shall have power * * * to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the United States, or in department or officer thereof."

Notwithstanding the constitutional provision for the taking of a census every tenth year, no apportionment has been made thereon since the act of Congress of August 8, 1911, under which the House of Representatives is composed of 435 Members. Since the taking of the 1920 census the Congress has failed to comply with this constitutional requirement.

Second. This bill provides for retaining the membership of the House of Representatives at 435 Members. I do not favor an increase in the membership of the House and therefore favor this provision of the pending bill.

Third. I do not fear the delegation of a purely ministerial power to the Secretary of Commerce.

The bill provides, as required by the Constitution, for one Member from each State, and then for apportionment according to the method of majority fractions of the remaining Members among the several States, but retaining the membership at 435. No discretion is vested in the Secretary of Commerce and his action is purely ministerial.

In my judgment, if Congress fails to enact this legislation, after the 1930 census we will be met with the same delays and obstructions which we have encountered since the taking of the census of 1920. Unfortunately, a number of the States will lose one or more Representatives. It is natural for the Representatives from those States to oppose the enactment of such legislation by every parliamentary tactic which is known to them. They have been successful in this since 1920. They will either oppose the enactment of apportionment legislation or succeed in enlarging the membership of the House of Representatives so that none of the States will lose a Member. That has been the policy of those opposing such legislation since the foundation of the Government. The first House of Representatives was composed of 30 Members, while the present House has 435 Members. I am not in favor of increasing this number, and for that reason, and because in my judgment, the spirit of the Constitution requires Congress to pass an apportionment bill every 10 years, and for fear of further delay after the taking of the 1930 census, I favor the enactment of this bill.

I do not fear the conferring of the authority, which is purely ministerial, upon the Secretary of Commerce.

This bill gives to Oklahoma one additional Member of the House of Representatives. My State is entitled to its proportionate representation, but whether the State of Oklahoma secures an additional Member or not, Congress should comply with the Constitution and enact apportionment legislation every 10 years.

This legislation does not go into effect until the Seventy-third Congress, plenty of time being given to Congress to enact apportionment legislation, but in the event that Congress fails to do so, as it has for the past nine years, then the membership of the House of Representatives is apportioned by giving each State one Member, as required by the Constitution, and the remaining membership is apportioned according to population as shown by the census, among the several States by the method of majority fractions by a purely ministerial act on the part of the Secretary of Commerce.

Mr. ROY G. FITZGERALD. Mr. Speaker, the foundation of our republican form of government, the basis of representative government in the United States, is the fair apportionment of the Representatives in Congress among the States in accordance with population. The Senate represents arbitrary, accidental, and disproportional areas of land. The more than 10,000,000 of people of the State of New York have but the same representation in the Senate as the less than 90,000 people of the State of Nevada. In the House of Representatives alone under our Constitution is there a chance for a fair expression of the popular will. The House alone can mirror the thought and register the will of our people in their development and advance in civilization.

Article I of the Constitution orders that a census of the inhabitants of the United States be taken every 10 years. And for what purpose? For the sole purpose of making a correct reapportionment of the Members of the House of Representatives, so that our right of self-government may be preserved. The census has been enlarged to serve other useful purposes, but the reason for the provision for it in the Constitution is still all compelling. Each of us Members of this House has taken a solemn oath to support and defend this Constitution. We are the trustees of the people of this country, charged by them with a special duty under the Constitution to protect and preserve our free institutions.

Those wise men who drafted the Constitution foresaw the shifting of population and the changes in concentration. They foresaw the necessity for a periodical reapportionment of the membership of the House in order to insure a government of, by, and for the people. Apparently they did not realize the great temptation to which Members of the House would be subjected to cling to unjust and unlawful power. When the result of the 1920 census was announced it was realized that 11 States were to lose one or more Representatives and but 8 States would gain. Heretofore the resistance to reapportionment has been overcome by increasing the total number of Representatives until the original number of 65 by increases every 10 years has risen to the present total of 435. Many think that these increases have tended to decrease the efficiency and responsibility of the House and its ability to legislate fairly in the public interest. It seems to be the prevailing sentiment, both in and out of Congress, that it would be harmful to further increase the total number.

The House passed a reapportionment bill in the Sixty-sixth Congress in the spring of 1921, but it was not acted upon in the Senate. Patriotic Members have tried continuously since then to fulfill the constitutional duty, but in vain.

To-day we approach a crisis. Shall we continue to betray our trust? Shall we be foresworn? Is it treasonable to fail to obey the constitutional mandate when the fundamental of popular government is involved? Or can anything be treasonable if not subject to criminal punishment? Can the Supreme Court always be relied upon to uphold laws enacted by a Congress illegally constituted? Will people deprived of their constitutional rights be justified in resorting to arms when they come to realize their subject condition after some particularly atrocious act of misrepresentation by some future Congress?

All these questions present themselves to the thoughtful mind when it contemplates the improbability of a reapportionment after the 1930 census if 17 States are, as estimated, to lose one or more of their Representatives. A tremendous strain is put upon the membership of this House. It seems less dishonest, and possibly it is, to withhold property of another which has by chance come into one's possession than to, by act of ours, seize that which is another's. I trust that there may prevail to-day an aggressive honesty in this matter of reapportionment; an honesty such as is told of Lincoln in his youth going miles on foot without delay to pay a sum of money belonging to another that by chance had come into his possession and which he could not honorably retain.

That my own State of Ohio has for years been deprived of her full representation in this House and consequently the Ohio people of their proper influence in the election of the President and of their quota of young men at the Military and Naval Academies may help me to realize the importance of this bill, but I doubt if it has affected my reason or warped my judgment.

BILLS PRESENTED TO THE PRESIDENT

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President for his approval bills of the House of the following titles:

H. R. 7729. An act to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases;

H. R. 13645. An act to establish two United States narcotic farms for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes;

H. R. 14473. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois;

H. R. 14474. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois; and

H. R. 15333. An act granting the consent of Congress to the South Park commissioners and the commissioners of Lincoln Park, separately or jointly, to construct, maintain, and operate a free highway bridge across that portion of Lake Michigan lying opposite the entrance to Chicago River, Ill; and granting the consent of Congress to the commissioners of Lincoln Park to construct, maintain, and operate a free highway bridge across the Michigan Canal, otherwise known as the Ogden Slip, in the city of Chicago, Ill.

ADJOURNMENT

Mr. FENN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 47 minutes p. m.) the House adjourned, pursuant to the order, until Monday, January 14, 1929, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Saturday, January 12, 1929, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

Navy Department appropriation bill.

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

(10.30 a. m., Caucus Room)

Continuing the powers and authority of the Federal Radio Commission under the radio act of 1927 (H. R. 15430).

SPECIAL COMMITTEE INVESTIGATING PRISONS

(10 a. m., room 127, House Office Building)

To consider prison conditions, care of inmates, and labor conditions in United States prisons.

COMMITTEE ON MILITARY AFFAIRS

(9.30 a. m.)

To amend section 5a of the national defense act, approved June 4, 1920, providing for placing educational orders for equipment (H. R. 450).

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE—SUBCOMMITTEE ON THE COAST GUARD

(10 a. m.)

To provide for establishment of a Coast Guard station at or near the mouth of the Quillayute River, in the State of Washington (H. R. 14121, 14151).

Authorizing the Secretary of the Treasury to donate to the city of Oakland, Calif., the United States Coast Guard cutter *Bear* (H. R. 14452).

To provide for the acquisition of a site and the construction thereon and equipment of buildings and appurtenances for the Coast Guard Academy (H. R. 16129).

EXECUTIVE COMMUNICATIONS, ETC.

737. Under clause 2 of Rule XXIV a letter from the Secretary of the Navy, transmitting draft of a bill for the relief of Benjamin Gonzales, was taken from the Speaker's table and referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. LUCE: Committee on the Library. H. R. 13935. A bill to provide for the purchase of a bronze bust of the late Lieut. James Melville Gilliss, United States Navy, to be presented to the Chilean National Observatory, with amendment (Rept. No. 2067). Referred to the Committee of the Whole House on the state of the Union.

Mr. LUCE: Committee on the Library. H. J. Res. 350. A joint resolution to provide for the reappointment of Frederic A. Delano and Irwin B. Laughlin as members of the Board of Regents of the Smithsonian Institution; without amendment (Rept. No. 2068). Referred to the House Calendar.

Mr. McFADDEN: Committee on Banking and Currency. S. 4039. An act to exempt joint-stock land banks from the provisions of section 8 of the act entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914, as amended; without amendment (Rept. No. 2069). Referred to the House Calendar.

Mr. McFADDEN: Committee on Banking and Currency. S. J. Res. 142. A joint resolution authorizing the erection of a Federal reserve bank building in the city of Los Angeles, Calif.; without amendment (Rept. No. 2070). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. VINSON of Georgia: Committee on Naval Affairs. H. R. 9972. A bill for the relief of Charles Silverman; without amendment (Rept. No. 2071). Referred to the Committee of the Whole House.

Mr. GAMBRILL: Committee on Naval Affairs. S. 1633. An act for the relief of Edward A. Blair; without amendment (Rept. No. 2072). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, the Committee on Pensions was discharged from the consideration of the bill (H. R. 15356) granting a pension to Anna Udell, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPEARING: A bill (H. R. 16162) to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near New Orleans; to the Committee on Interstate and Foreign Commerce.

By Mr. CRAIL: A bill (H. R. 16163) to amend paragraph 10, section 202, of the World War veterans' act of 1924, as amended; to the Committee on World War Veterans' Legislation.

Also, a bill (H. R. 16164) to amend section 200 of the World War veterans' act of 1924, as amended; to the Committee on World War Veterans' Legislation.

By Mr. PARKS: A bill (H. R. 16165) for the purchase of a site and the erection of a public building thereon at Magnolia, Ark.; to the Committee on Public Buildings and Grounds.

By Mr. COLTON: A bill (H. R. 16166) to provide for the classification of certain public lands, the development, protection, and utilization of grazing thereon, to stabilize the range stock-raising industry, and for other purposes; to the Committee on the Public Lands.

By Mr. DYER: A bill (H. R. 16167) to amend an act entitled "An act creating the United States Court for China and prescribing the jurisdiction thereof" (Public, No. 403, 59th Cong.), and an act entitled "An act making appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921" (Public, No. 238, 66th Cong.); to the Committee on the Judiciary.

By Mr. SIROVICH: A bill (H. R. 16168) to amend the classification act of 1923, approved March 4, 1923; to the Committee on the Civil Service.

By Mr. WOOD: A bill (H. R. 16169) to authorize the Secretary of War to accept title to a certain tract of land adjacent to the Indiana Harbor Ship Canal at East Chicago, Ind.; to the Committee on Military Affairs.

By Mr. GAMBRILL: A bill (H. R. 16170) authorizing Walter J. Mitchell, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Patuxent River between Charles County, Md., and Calvert County, Md.; to the Committee on Interstate and Foreign Commerce.

By Mr. FISH: Joint resolution (H. J. Res. 378) proposing an amendment to the Constitution of the United States for a referendum on war; to the Committee on the Judiciary.

By Mr. DAVIS: Concurrent resolution (H. Con. Res. 47) requesting the Federal Trade Commission to transmit to the Attorney General evidence taken under complaint charging monopoly in radio, and requesting the Attorney General to consider and take such action as may be warranted; to the Committee on the Merchant Marine and Fisheries.

By Mr. SOMERS of New York: Resolution (H. Res. 286) directing the chairman of the Committee on the Judiciary of the House to appoint from the membership of the Judiciary Committee a select committee of three members to confer with the United States attorney for the southern district of New York for the purpose of obtaining his recommendations concerning certain bankruptcy laws, and for other purposes; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BEERS: A bill (H. R. 16171) granting an increase of pension to Annie E. Showalter; to the Committee on Invalid Pensions.

By Mr. CRAIL: A bill (H. R. 16172) for the relief of Edwin G. Blanchard; to the Committee on Military Affairs.

By Mr. DALLINGER: A bill (H. R. 16173) granting a pension to Harriet M. Nickerson; to the Committee on Invalid Pensions.

By Mr. EATON: A bill (H. R. 16174) granting an increase of pension to Lucy Maguire; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16175) granting an increase of pension to Mary E. Opdycke; to the Committee on Invalid Pensions.

By Mr. ESLICK: A bill (H. R. 16176) granting a pension to John W. McGee; to the Committee on Pensions.

By Mr. FOSS: A bill (H. R. 16177) granting a pension to Harriet A. Clarke; to the Committee on Pensions.

By Mr. GREGORY: A bill (H. R. 16178) for the relief of W. A. Anderson and Mellie M. Anderson; to the Committee on Claims.

By Mr. HOLADAY: A bill (H. R. 16179) for the relief of Bruce Welch; to the Committee on Military Affairs.

By Mr. JACOBSTEIN: A bill (H. R. 16180) for the relief of Frank C. Hartman; to the Committee on Military Affairs.

Also, a bill (H. R. 16181) for the relief of Petro Melazzo; to the Committee on Appropriations.

By Mr. KIESS: A bill (H. R. 16182) granting an increase of pension to Sarah L. Colegrove; to the Committee on Invalid Pensions.

By Mr. KING: A bill (H. R. 16183) granting a pension to Mary A. Baker; to the Committee on Pensions.

Also, a bill (H. R. 16184) granting an increase of pension to James D. Silman; to the Committee on Pensions.

By Mrs. LANGLEY: A bill (H. R. 16185) granting a pension to Neva Stapleton; to the Committee on Pensions.

Also, a bill (H. R. 16186) granting a pension to Daniel Wilson; to the Committee on Pensions.

Also, a bill (H. R. 16187) granting an increase of pension to Dury M. Craft; to the Committee on Pensions.

By Mr. LEAVITT: A bill (H. R. 16188) granting a pension to Old Coyote; to the Committee on Pensions.

By Mr. MAJOR of Missouri: A bill (H. R. 16189) granting a pension to Jane Hartley; to the Committee on Invalid Pensions.

By Mr. NELSON of Missouri: A bill (H. R. 16190) granting a pension to Thomas B. Murray; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16191) granting a pension to Elizabeth Schaper; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16192) granting a pension to Mary A. Hodge; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16193) granting a pension to Hugh Creach; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16194) granting an increase of pension to Mary E. Kitchell; to the Committee on Invalid Pensions.

By Mr. PURNELL: A bill (H. R. 16195) granting an increase of pension to Harry Elkins; to the Committee on Pensions.

By Mr. ROBSION of Kentucky: A bill (H. R. 16196) granting a pension to Polly Melton; to the Committee on Pensions.

By Mr. SCHAFER: A bill (H. R. 16197) for the relief of Morris Rosen; to the Committee on Military Affairs.

By Mr. SUMMERS of Washington: A bill (H. R. 16198) granting a pension to Ola Baker; to the Committee on Invalid Pensions.

By Mr. SWICK: A bill (H. R. 16199) granting an increase of pension to Elizabeth A. McConahy; to the Committee on Invalid Pensions.

By Mr. UPDIKE: A bill (H. R. 16200) granting a pension to Fred Henry; to the Committee on Pensions.

Also, a bill (H. R. 16201) granting an increase of pension to Clarissa M. Heaston; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16202) granting an increase of pension to Frances A. Rhea; to the Committee on Invalid Pensions.

By Mr. WURZBACH: A bill (H. R. 16203) granting an increase of pension to Zereldia A. Robinson; to the Committee on Pensions.

By Mr. ARNOLD: A bill (H. R. 16204) granting a pension to Oscar Fields; 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:

8210. By Mr. CULLEN: Petition of the New York Zoological Society, heartily approving the objects intended to be accomplished in Senate bill 1271, and believe that when bill is suitably modified and amended this bill should become law; to the Committee on Agriculture.

8211. By Mr. GARBER: Petition of the board of governors of the New York Zoological Society, indorsing Senate bill 1271; to the Committee on Agriculture.

8212. Also, petition of Nordic Seafood Co., Tulsa, Okla., urging support of House Joint Resolution 303, to amend the Hoch-Smith resolution; to the Committee on Interstate and Foreign Commerce.

8213. Also, petition of the Institute of Margarine Manufacturers, Washington, D. C., urging support of House bill 10958; to the Committee on Interstate and Foreign Commerce.

8214. Also, petition of organized labor of America, by the Chicago Federation of Labor, in regard to the radio situation; to the Committee on Interstate and Foreign Commerce.

8215. Also, petition of the National Beauty and Barbers' Supply Dealers' Association, indorsing the Capper-Kelly bill, H. R. 11 and S. 1418, known as the fair trade bill; to the Committee on Interstate and Foreign Commerce.

8216. Also, petition of Texas Cement Plaster Co., urging adequate protection in the new tariff on gypsum and gypsum products; to the Committee on Ways and Means.

8217. By Mr. HUDSPETH: Petition of the El Paso County Farm Bureau, making recommendations as to needed farm relief; to the Committee on Agriculture.

8218. By Mr. O'CONNELL: Petition of Institute of Margarine Manufactures, Washington, D. C., favoring the passage of the Haugen bill (H. R. 10958); to the Committee on Agriculture.

8219. Also, petition of Ed. S. Vail Butterine Co., Chicago, Ill., opposing a special rule for the consideration of House bill 10958, the Haugen bill; to the Committee on Rules.

8220. Also, petition of The New York Zoological Society, New York City, favoring the passage of Senate bill 1271; to the Committee on Agriculture.

8221. By Mr. SWICK: Petition of V. O. Rhodes and 58 citizens of Beaver Falls, indorsing the immigration act of 1924 and urging more adequate legislation for the deportation of undesirables; to the Committee on Immigration and Naturalization.

8222. My Mr. WELCH of California: Communication from the Mates, Masters, and Pilots of the Pacific, complaining of the conditions in reference to shipping in San Francisco Bay area; to the Committee on Labor.

SENATE

SATURDAY, *January 12, 1929*

(Legislative day of Monday, January 7, 1929)

The Senate met in open executive session at 12 o'clock meridian, on the expiration of the recess.

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

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Fess	McKellar	Sheppard
Barkley	Fletcher	McMaster	Shipstead
Bayard	Frazier	McNary	Shortridge
Bingham	George	Mayfield	Simmons
Black	Gerry	Metcalf	Smoot
Blaine	Gillett	Moses	Steck
Blease	Glass	Neely	Steiwer
Borah	Goff	Norbeck	Stephens
Bratton	Greene	Norris	Swanson
Brookhart	Harris	Nye	Thomas, Idaho
Broussard	Harrison	Oddie	Thomas, Okla.
Bruce	Hawes	Overman	Trammell
Burton	Hayden	Pine	Tydings
Capper	Heflin	Pittman	Tyson
Caraway	Johnson	Ransdell	Vandenberg
Copeland	Jones	Reed, Mo.	Wagner
Couzens	Kendrick	Reed, Pa.	Walsh, Mass.
Curtis	Keyes	Robinson, Ark.	Warren
Deneen	King	Robinson, Ind.	Waterman
Dill	La Follette	Sackett	Wheeler
Edge	Larrazolo	Schall	

Mr. NORRIS. I desire to announce the absence of the junior Senator from Nebraska [Mr. HOWELL] on account of illness. This announcement may stand for the day.

Mr. WHEELER. My colleague the senior Senator from Montana [Mr. WALSH] is detained by illness. I ask that this announcement may stand for the day.

Mr. GERRY. I wish to announce that the senior Senator from South Carolina [Mr. SMITH] is unavoidably detained from the Senate by illness in his family. I will let this announcement stand for the day.

Mr. CURTIS. I wish to announce that the senior Senator from Maine [Mr. HALE] is detained from the Senate by illness. I will let this announcement stand for the day.

The VICE PRESIDENT. Eighty-three Senators having answered to their names, a quorum is present. The Senate, as in legislative session, will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had passed a bill (H. R. 11725) for the apportionment of Representatives in Congress, in which it requested the concurrence of the Senate.

REPORT OF THE CHESAPEAKE & POTOMAC TELEPHONE CO.

As in legislative session,

The VICE PRESIDENT laid before the Senate a communication from the president of the Chesapeake & Potomac Telephone Co., transmitting, pursuant to law, the annual report of