buckwheat, eggs, dairy products, etc.; to the Committee on Ways and Means.

13414. Also, petition of executive committee of New York State Grange, opposing higher tariff on lumber; to the Committee on Ways and Means.

13415. Also, petition of Common Council of the City of Buffalo, favoring higher pensions for Spanish War veterans; to the Committee on Pensions.

13416. By Mr. O'CONNELL: Petition of the National Builders' Supply Association of the United States, favoring the Treadway bill (H. R. 13405); to the Committee on Ways and Means.

13417. Also, petition of the Institute of Margarine Manufactures, favoring the passage of the Haugen bill (H. R. 10958); to the Committee on Agriculture.

13418. Also, petition of the New York State Grange, opposing any tariff on lumber or shingles from the Dominion of Canada; to the Committee on Ways and Means.

13419. Also, petition of the Baltimore Butterine Co., Baltimore, Md., opposing the passage of the Haugen oleomargarine bill (H. R. 10958); to the Committee on Agriculture.

13420. By Mr. QUAYLE: Petition of Charles Hess Co., New York City, N. Y., opposing a tariff increase on Cuban sugar; to the Committee on Ways and Means.

13421. Also, petition of United States Casualty Co., of New York City, N. Y., favoring the passage of House bill 15769, to authorize an appropriation to reimburse various insurance companies for losses which they sustained by reason of the explosions; to the Committee on War Claims.

13422. Also, petition from the executive committee of New York State Grange, opposed to a tariff on lumber and shingles; to the Committee on Ways and Means.

13423. Also, petition of Douglas I. McKay, State department commander, American Legion, New York, favoring the passage of the American Legion hospital bill; to the Committee on World War Veterans' Legislation.

13424. Also, petition of David W. Sowers, opposing House bill 14000, amending section 29 of the farm loan act; to the Committee on Banking and Currency.

13425. By Mr. SELVIG: Petition of seven residents of Pennington County and six residents of Clearwater County, in the ninth district, Minnesota, urging the passage of House bill 10958; to the Committee on Agriculture.

13426. Also, petition of Woman's Christian Temperance Union, of Ada, Minn., urging the passage of the Jones-Stalker bill; to the Committee on the Judiciary.

13427. By Mr. SOMERS of New York: Petition of Sidney Levine and his brother, Joseph Levine, charging misconduct on the part of Judge Grover M. Moscowitz, district judge of the eastern district of New York; to the Committee on the Judiciary.

13428. By Mr. SWING: Petition of residents of San Diego, Calif., and vicinity, protesting against compulsory Sunday observance bill (H. R. 78); to the Committee on the District of Columbia.

13429. By Mr. THATCHER: Petition of numerous adult residents of Louisville, Ky., and vicinity, protesting against the enactment of House bill 78, or any other bills proposing compulsory observance of the Sabbath; to the Committee on the District of Columbia.

13430. By Mr. WATSON: Petition of the Lansdale Baptist Sunday School, with a membership of 560, urging the enactment of legislation to protect the people of the Nation's Capital in their enjoyment of Sunday as a day of rest in seven, as provided in the Lankford bill (H. R. 78), or similar measures; to the Committee on the District of Columbia.

13431. By Mr. WELCH of California: Petition of United Spanish War Veterans, Department of California, requesting the enactment of House bill 14676; to the Committee on Pensions.

13432. By Mr. WHITTINGTON: Petition of board of supervisors, of Washington County, Miss., to extend the open season for shooting ducks and geese, from February 1 to February 15; to the Committee on Agriculture.

SENATE

MONDAY, *February 25, 1929*

The Chaplain, Rev. Zebarney T. Phillips, D. D., offered the following prayer:

O God, Thou unseen source of holiness and peace, help us to trust not in our knowledge of Thee but in Thy knowledge of us; make us sure of Thee, not because we feel our thoughts of Thee are true but just because we know Thou dost transcend them all. Be patient with our foolish doubts, for Thou hast set the questions which perplex us, and grant that we may find our unbelief to be but nascent faith fretting at its outworn form. When we are tempted to desist from moral strife, reveal the power Thy presence doth impart, and ere we tire of mental search, remind us of Thy call which stirred our souls and turn us back from voyages of thought to that which sent us forth, from wanderings without to find Thee still within. Grant this for the sake of Thine own blessed Son, Jesus Christ our Lord. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of the legislative day of Friday last, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House insisted upon its amendments to the bill (S. 1781) to establish load lines for American vessels, and for other purposes, disagreed to by the Senate, agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. WHITE, of Maine, Mr. LEHLBACH, Mr. FREE, Mr. DAVIS, and Mr. BLAND were appointed managers on the part of the House at the conference.

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. 924. An act for the relief of Joe D. Donisi; and

H. R. 10304. An act authorizing the Secretary of War to erect headstones over the graves of soldiers who served in the Confederate Army and to direct him to preserve in the records of the War Department the names and places of burial of all soldiers for whom such headstones shall have been erected, and for other purposes.

CALL OF THE ROLL

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

Mr. TRAMMELL. I wish to announce that my colleague [Mr. FLETCHER] is necessarily absent. I will let this announcement stand for the day.

The VICE PRESIDENT. Eighty-six Senators having answered to their names, a quorum is present.

THE CALENDAR—UNANIMOUS-CONSENT AGREEMENT

Mr. CURTIS. Mr. President, while there is a quorum present I desire to submit a request for the following unanimous-consent agreement.

The VICE PRESIDENT. The clerk will read the proposed agreement.

The Chief Clerk read as follows:

Ordered, by unanimous consent, That at the conclusion of the business of the Senate to-day the Senate recess until 11 o'clock Tuesday, February 26, 1929; that on the convening of the Senate on said day it proceed to the consideration of unobjected bills on the calendar, beginning at Calendar No. 1713, and that the consideration of unobjected bills shall not continue for more than two hours.

The VICE PRESIDENT. Is there objection?

Mr. BRUCE. Mr. President, I should like to consider the proposal for a little while.

Mr. CURTIS. I hope the Senator will not object.

Mr. BRUCE. I know the Senator entertains a most fervent hope to that effect, but I would like to consider it a little while. I will look at it at once.

Mr. CURTIS. I will withdraw it for the moment.

Mr. CURTIS subsequently said: Mr. President, I would like to submit again the unanimous-consent request. I have talked

with the Senator from Maryland [Mr. BRUCE] and he has no objection.

The VICE PRESIDENT. The clerk will read the proposed unanimous-consent agreement.

The Chief Clerk read the proposed unanimous-consent agreement.

Mr. HEFLIN. Mr. President, is the number on the calendar designated by the Senator the number where we left off before?

Mr. CURTIS. Yes; it is where we left off on the last call of the calendar.

Mr. EDGE. Mr. President, I have no intention of objecting. I simply wish to direct attention to the fact that we have a unanimous-consent agreement to proceed under the 10-minute limit with Senate Joint Resolution 117, the Nicaraguan canal measure, at 4 o'clock to-day; but I assume we shall be able to dispose of that measure before the day is ended.

Mr. CURTIS. This agreement would not interfere with the joint resolution which the Senator has in charge.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the unanimous-consent agreement is entered into.

SALES OF FOREIGN CALF LEATHER IN THE UNITED STATES (S. DOC. NO. 230)

The VICE PRESIDENT. The Chair lays before the Senate a response of the Tariff Commission to Senate Resolution 163, submitted by Mr. COPELAND and agreed to March 2, 1928, relative to foreign calf-leather sales in the United States, which will lie on the table and be printed as a Senate document.

SUPPLEMENTAL ESTIMATES OF APPROPRIATIONS

The VICE PRESIDENT laid before the Senate communications from the President of the United States, together with accompanying letters from the Director of the Bureau of the Budget, transmitting, pursuant to law, supplemental estimates of appropriations, which, with the accompanying papers, were referred to the Committee on Appropriations and ordered to be printed, as follows:

An estimate for the Department of Agriculture, amounting to $80,000, for the fiscal year ending June 30, 1930, for carrying into effect the provisions of the migratory bird conservation act, approved February 18, 1929 (S. Doc. No. 244);

An estimate for the War Department, for the fiscal year ending June 30, 1929, to remain available until expended, for investigations and surveys for a Nicaraguan canal and to determine the possibilities and cost of enlarging the Panama Canal, amounting to $150,000 (submitted in lieu of the estimate transmitted on May 23, 1928, which referred only to an investigation and survey for a Nicaraguan canal) (S. Doc. No. 237);

An estimate of appropriation for the Department of the Interior, Bureau of Indian Affairs, for the fiscal years ending June 30, 1929, and June 30, 1930, for the payment of draft assessments on restricted Indian allotments, Cleveland County, Okla., amounting to $2,729.30 (S. Doc. No. 238);

An estimate for the Treasury Department for the fiscal year ending June 30, 1930, amounting to $50,000, required for the extension and remodeling of the building for the Salisbury (N. C.) post office, courthouse, etc. (S. Doc. No. 239);

An estimate for the Treasury Department for the fiscal year ending June 30, 1930, amounting to $10,000, pertaining to the Coast Guard, for the preparation of plans, drawings, etc., for a Coast Guard Academy building and appurtenances (S. Doc. No. 240); and

An estimate for the Department of State for the fiscal years ending June 30, 1929, and June 30, 1930, amounting to $1,475 (indemnity for the death of Wang-Ehr-Ko, Chinese citizen, $875; International Society for the Exploration of the Arctic Regions by Means of the Airship, fiscal years 1929 and 1930, $300 for each fiscal year) (S. Doc. No. 241).

OKLAHOMA EXPERIMENT STATION (S. DOC. NO. 242)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, together with an accompanying letter from the Director of the Bureau of the Budget, transmitting a draft of proposed legislation affecting existing appropriations for the Oklahoma Experiment Station, Department of Agriculture, for the fiscal year ending June 30, 1929; which, with the accompanying papers, was referred to the Committee on Appropriations and ordered printed.

TRANSFER OF FUNDS TO CERTAIN DEPARTMENTS (S. DOC. NO. 243)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, together with an accompanying letter from the Director of the Bureau of the Budget, transmitting a draft of proposed legislation affecting a transfer of funds from an existing appropriation for the Department of Agriculture, Weather Bureau, to the Treasury Department, Coast Guard, for the fiscal year ending June 30, 1930, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

JUDGMENTS RENDERED BY THE COURT OF CLAIMS (S. DOC. NO. 231)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, in compliance with law, a list of judgments rendered by the Court of Claims and requiring an appropriation for their payment, as follows: Under independent offices: United States Veterans' Bureau, $13,434.90; under Department of Agriculture, $11,520.55; under the Navy Department, $51,150; and under the War Department, $111,614.72, in the total amount of $187,720.17, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

CLAIM UNDER THE NAVY PENSION FUND—FLOYD A. NEWALL (S. DOC. NO. 232)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting a proposed draft of legislation affecting an existing appropriated fund, the Navy pension fund, authorizing payments therefrom in the amount of $10.61 in accordance with law, providing for the disposition of effects of deceased persons in the naval service, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

JUDGMENTS BY UNITED STATES COURTS IN SPECIAL CASES (S. DOC. NO. 233)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, records of judgments rendered against the Government by the United States district courts in special cases—under the Navy Department, $700,231.38; under the War Department, $8,867.40; in the total amount of $709,098.78, which, with the accompanying papers, were referred to the Committee on Appropriations and ordered to be printed.

JUDGMENT RENDERED UNDER THE PUBLIC VESSELS ACT (S. DOC. NO. 234)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a record of a judgment rendered against the Government by the United States District Court for the District of Massachusetts, under the Public Vessels Act—under the Treasury Department, $1,032.60, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

CLAIMS ALLOWED BY THE GENERAL ACCOUNTING OFFICE (S. DOC. NO. 235)

The VICE PRESIDENT laid before the Senate communication from the President of the United States, transmitting, in compliance with law, schedules of claims amounting to $115,896.71, allowed by various divisions of the General Accounting Office, under appropriations the balances of which have been carried to the surplus fund under the provisions of law, and for the service of the several departments and independent offices, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

CLAIMS FOR DAMAGES TO PRIVATELY OWNED PROPERTY (S. DOC. NO. 236)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting estimates of appropriations submitted by the several executive departments to pay claims for damages to privately owned property and damages by collision with naval vessels, in the sum of $4,707.51, which have been considered and adjusted under the provisions of law, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATE, FEDERAL BOARD FOR VOCATIONAL EDUCATION (S. DOC. NO. 247)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a supplemental estimate of appropriation for the Federal Board for Vocational Education, fiscal year 1930, in amount $15,000, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

VOCATIONAL REHABILITATION OF DISABLED RESIDENTS OF THE DISTRICT

The VICE PRESIDENT laid before the Senate a supplemental estimate of appropriation for the District of Columbia, fiscal year 1930, amounting to $15,000, to carry into effect the provisions of the act of February 23, 1929, authorizing appropriations of District of Columbia funds to match equal appro-

priations of Federal funds, to provide for the vocational rehabilitation of disabled residents of the District of Columbia, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

RELIEF OF FARMERS IN STRICKEN AREAS, SOUTHEASTERN UNITED STATES

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a supplemental estimate of appropriation for the Department of Agriculture, amounting to $6,000,000, for the fiscal year 1929, to remain available until June 30, 1930, for the purpose of making advances or loans to farmers in the storm and flood stricken areas of the southeastern United States as contemplated by law, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

CONSTRUCTION OF BUILDINGS AT MILITARY POSTS (S. DOC. NO. 250)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a supplemental estimate of appropriation for the War Department, fiscal year 1929, for construction of buildings, utilities and appurtenances at military posts, amounting to $1,103,000, and containing a draft of proposed legislation affecting an existing appropriation of the War Department, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

MOUNT RUSHMORE NATIONAL MEMORIAL COMMISSION (S. DOC. NO. 249)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, a supplemental estimate of appropriation for the fiscal year 1929, in the amount of $100,000, to remain available until expended for carrying into effect the provisions of the act creating the Mount Rushmore National Memorial Commission, approved February 25, 1929, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

METHODS OF RECOVERING POTASH

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, supplemental estimates of appropriation for the Department of Commerce, amounting to $33,000, for the fiscal year 1929, and $25,000, for the fiscal year 1930, for the development of methods of recovering potash from deposits in the United States, total amount $58,000, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

The VICE PRESIDENT also laid before the Senate a communication from the President of the United States, transmitting, pursuant to law, supplemental estimates of appropriation, amounting to $17,000 for the fiscal year 1929, and $25,000 for the fiscal year 1930, for the development of methods of recovering potash from deposits in the United States, total amount $42,000, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed. (S. Doc. No. 246.)

PAVING DRY VALLEY ROAD, GA. (S. DOC. NO. 252)

The VICE PRESIDENT laid before the Senate a message from the President of the United States, transmitting, pursuant to law, a supplemental estimate of appropriation for the War Department, fiscal year 1929, to remain available until June 30, 1930, for paving Dry Valley Road in Georgia, $60,000, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the State of Nevada, which was referred to the Committee on Public Lands and Surveys:

Assembly joint resolution approved February 19, 1929

Whereas there are now pending before the Congress of the United States S. 4601, introduced by Senator ODDIE, and H. R. 14665, introduced by Representative COLTON, identical measures, having for their purpose the appropriation of $3,500,000 for the fiscal year ending June 30, 1929; $3,500,000 for the fiscal year ending June 30, 1930; and $3,500,000 for the fiscal year ending June 30, 1931, for the construction of main roads through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations; and

Whereas the passage of these measures would be but an act of justice to the public-land States wherein vast areas of nontaxable lands are owned by the Federal Government; and

Whereas it has been shown that under present appropriations it will take approximately 40 years to complete the forest highway system, while with the aid of the appropriations carried by the proposed measure important gaps within and across the public-land States, largely across the public domain and Government reserves, will be closed within a reasonable period, thus tending to complete the Federal system of highways across the country: Therefore be it

Resolved by the assembly (the senate concurring), That our Senators and Representative be urged to use all honorable means to promote these measures before the Congress of the United States, so that the actual work of construction on important links of our highway system may proceed without further delay; and be it further

Resolved, That properly certified copies of this resolution be telegraphed to our Senators and Representative, and to the President of the United States Senate and Speaker of the House of Representatives, to the Secretary of Agriculture, and to the legislatures of the public-land States now in session.

MORLEY GRISWOLD,
President of the Senate.
V. R. MERIALDO,
Secretary of the Senate.
R. C. TURRITTIN,
Speaker of the Assembly.
V. M. HENDERSON,
Chief Clerk of the Assembly.

The VICE PRESIDENT also laid before the Senate the following concurrent memorial of the Legislature of the State of Arizona, which was referred to the Committee on Indian Affairs:

HOUSE OF REPRESENTATIVES,
NINTH STATE LEGISLATURE, REGULAR SESSION.

House Concurrent Memorial 1

To the Senate and House of Representatives of the Congress of the United States of America in Congress assembled:

Your memorialist, the Ninth Legislature of the State of Arizona, in regular session convened, respectfully represents:

That of the 73,000,000 acres of land comprising the State of Arizona, approximately three-fifths are reserved by the Government of the United States;

That over these reserved lands the State of Arizona exercises no supervision or jurisdiction;

That 20,000,000 acres of these lands are reserved by the Government of the United States to the use and benefit of the Indian peoples in the State of Arizona;

That the above condition exists in many States;

That these Indian reservations are so situated as to prevent a systematic development and extension of county, State, or National highways without the cooperation and assistance of the Government of the United States;

That the Congress of the United States in enacting a most beneficent national road law has wholly failed to make any provision for the construction and maintenance of highways over and upon the lands reserved by the Federal Government to the use and benefit of its Indian wards.

Whereas adequate transportation facilities are a vital factor in the prosperity and civilization of any country and are essential to the development of its agriculture and manufactories, to the working of its forests and mines, and to the spread of education and enlightenment among its citizens; and

Whereas the public roads of Arizona are for a large percentage of her citizens and especially for the 42,000 Indian wards of the Federal Government, the only avenues of transportation leading from the point of production to the point of consumption or rail shipment, and these avenues are only now in the process of their development; and

Whereas a very large portion of the State of Arizona is held in reserve by the Government of the United States to the use and benefit of its Indian wards, and these reservations are so situated as to prevent any economic or systematic road-building activities on the part of the State government as continuous highways are rendered impracticable. This is especially true on the Hopi and Navajo Indian Reservations, as practically the long and important stretch of road from Cameron to Winslow is on the reservations; and

Whereas a further inequity results from the fact that traffic in its development takes no account of reservation and State boundaries, and the State government is powerless to provide for the extension of its highway system through the adjoining and intervening reservations; and

Whereas the improvement of highways should be commensurate with their importance, and a system of highways upon the Indian reservations of Arizona would form the only avenue by which the Indian nations could transport their products to a market or over which the many thousands of tourists from all parts of the United States could pass to view the marvelous beauties of our natural and historical wonders: Therefore be it

Resolved by the House of Representatives of the Legislature of the State of Arizona (the Senate concurring), That the development of the material resources of the Indian peoples of Arizona can best be furthered, their material prosperity best enhanced, their education and civilization more readily achieved, and that close association with civilization which has proved to be the efficient means of equipping them to share in the

responsibilities of life most certainly assured, by means of highways constructed and maintained over and upon the lands reserved by the Government of the United States to their use and benefit; and be it further

Resolved, That the Congress of the United States be, and it is hereby, urged to enact legislation which may be necessary to provide adequate appropriation for the construction and maintenance of highways over and upon Indian reservations in Arizona joining to and in conjunction with the system of State highways; and be it

Resolved further, That a copy of this memorial and these resolutions be forwarded to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, the Secretary of the Interior, the Commissioner of Indian Affairs, and to Representatives of Arizona in Congress; and that our Representatives in Congress be, and they are hereby, requested to do all in their power to accomplish the enactment of such legislation.

The VICE PRESIDENT also laid before the Senate the following joint memorial of the Legislature of the State of Oregon, which was referred to the Committee on Interstate Commerce:

Senate Joint Memorial 3

To the honorable Senate of the United States of America in Congress assembled:

Whereas there is pending before the Senate of the United States a resolution introduced by Senator HIRAM JOHNSON, as follows:

"*Resolved*, That a committee of five Members of the Senate be appointed by the President thereof, and be hereby empowered and directed to inquire into and report upon—

"(1) The growth of the capital assets and capital liabilities of public-utility corporations supplying telephone communications, however such telephone communications may be accomplished and/or produced, of corporations holding the stocks of such public-utility corporations, and of non-public-utility corporations owned or controlled by or affiliated with such holding companies;

"(2) The method of issuing, the price realized or value received, the commissions or bonuses paid or received, and other pertinent facts with respect to the various security issues of all classes of corporations herein named, including the bonds and other evidences of indebtedness thereof, as well as the stocks of the same;

"(3) The extent to which holding companies or their stockholders control or are financially interested in financial, engineering, construction, and/or management corporations, and the relations, one to the other, of the classes of corporations last named, the holding companies, and the public-utility corporations;

"(4) The services furnished to public-utility corporations by holding companies and/or their associated, affiliated, and/or subsidiary companies, the fees, commissions, bonuses, or other charges made therefor, and the earnings and expenses of such holding companies and their associated, affiliated and/or subsidiary companies; and

"(5) The value or detriment to the public of holding companies owning the stock otherwise controlling such public corporations immediately or remotely, with the extent of such ownership or control, and particularly what legislation, if any, should be enacted by Congress to correct any abuses that may exist in the organization or operation of such holding companies.

"(6) The committee is further empowered and directed to inquire and report whether, and to what extent, such corporations or any of the officers thereof or anyone in their behalf or in behalf of any organization of which any such corporation may be a member, through the expenditures of money or through the control of the avenues of publicity, have made any and what effort to influence or control public opinion on account of municipal or public ownership of the means by which telephone communication is accomplished and/or produced, or to influence or control elections.

"(7) That the said committee is hereby authorized to sit and perform its duties at such times and places as it deems necessary or proper, and to require the attendance of witnesses by subpœnas or otherwise; to require the production of books, papers, and documents; and to employ counsel, experts, and other assistants, and stenographers, at a cost not exceeding $1.25 per printed page.

"(8) The chairman of the committee, or any member thereof, may administer oaths to witnesses and sign subpœnas for witnesses; and every person duly summoned before said committee, or any subcommittee thereof, who refuses or fails to obey the process of said committee, or appears and refuses to answer questions pertinent to said investigation, shall be punished as prescribed by law.

"(9) The expense of said investigation shall be paid from the contingent fund of the Senate on vouchers of the committee or subcommittee, signed by the chairman and approved by the Committee to Audit and Control the Contingent Expenses of the Senate.

"(10) The committee or any subcommittee thereof is authorized to sit during the sessions or the recesses of the Senate and until otherwise ordered by the Senate": Be it

Resolved by the Senate of the State of Oregon (the House of Representatives jointly concurring therein), That we most earnestly petition and memorialize the Senate of the United States, in the name of the State of Oregon, to adopt said resolution hereinbefore set forth and to conduct the investigation in accordance with the terms thereof, and that the Hon. CHARLES L. MCNARY and the Hon. FREDERICK STEIWER, United States Senators from Oregon, be, and they hereby are, urged to give their active and earnest support to secure the adoption of said resolution; now, therefore, be it

Resolved, That the secretary of state of the State of Oregon be instructed to forward a copy of this memorial to Senators CHARLES L. MCNARY and FREDERICK STEIWER, and to each of the members of the Oregon congressional delegation, and a copy to the Senate of the United States.

Adopted by the senate February 5, 1929.

A. W. NORBLAD,
President of the Senate.

Concurred in by the house February 16, 1929.

R. S. HAMILTON,
Speaker of the House.

(Indorsed: Senate Joint Memorial No. 3, introduced by Senator Joe E. Dunne. Jno. P. Hunt, chief clerk. Filed, February 19, 1929, Hal E. Hoss, secretary of state.)

The VICE PRESIDENT also laid before the Senate the following joint memorial of the Legislature of the State of Montana, which was referred to the Committee on Finance:

Senate Joint Memorial 5, memoralizing Congress for the passage of necessary legislation providing for an increase of the tariff on plumbago, graphite, and graphite ores

To the honorable Senate and House of Representatives of the United States in Congress assembled:

Whereas during the period of the World War great strides were made in the development of graphite and graphite ores, and it appearing that the following features of the graphite industry commended it to tariff consideration, to wit:

1. Importance of the industry from the standpoint of military preparedness;

2. Desirability of the domestic supplies to insure commercial self-sufficiency;

3. Abundant natural resources of ore reserves:

4. Possibilities of developing larger supplies of high-grade ores;

5. Definite progress made by virtue of moderate tariff protection during the past six years;

6. Assurance that adequate tariff would enable substantial proportion and perhaps all of domestic requirements to be obtained from domestic mines; and

Whereas it appears that increased tariff protection is necessary to protect and further the development of mineral lands producing graphite and graphite ores; and it further appearing that during the past few years under tariff protection many processes have been discovered and developed to a commercial stage for the treating, refining, and preparation of said ores; and

Whereas large sums of capital are necessary to the development of the graphite industry in general and further tariff protection appearing absolutely essential and vital to the further development of said industry; and with adequate protection definitely assured the necessary money appears available; and

Whereas it appearing that the graphite industry needs tariff protection in order to survive, and it can not develop untouched resources unless such protection is substantial; it appearing from submitted facts that Ceylon plumbago and Madascar flake graphite imports do and will jeopardize and possibly destroy American production of graphite; and further that the present tariff rate upon such minerals is wholly inadequate to afford proper protection and encourage future development and research: Now, therefore, be it

Resolved by the Legislative Assembly of the State of Montana, That we do hereby petition the Congress of the United States for the passage of necessary legislation, enacting a tariff schedule upon graphite of all kinds according to the schedule hereinafter set forth as a minimum; and that paragraph 213 of the present law now in force and effect, known as the Fordney-McCumber Act, be amended to read as follows:

"Graphite or plumbago, crude or refined; amorphous, one-half cent per pound; crystalline graphite or plumbago, lump, chip, or dust, 4 cents per pound; crystalline flake, 3 cents per pound. As used in this paragraph the term "crystalline flake" means graphite or plumbago, which occurs disseminated as a relatively thin flake throughout its containing rock, decomposed or not, and which may be or has been separated therefrom by ordinary crushing, pulverizing, screening, or mechanical concentration process, such flakes being made up of a number of parallel laminæ, which may be separated by mechanical means";

and that such schedule be and become immediately effective and operative upon enactment and approval; be it further

Resolved, That a copy of this memorial be transmitted by the secretary of state of the State of Montana to both Houses of the National Congress and to the Senators and Representatives in Congress from the

State of Montana, also to the Ways and Means Committee of the National Congress and to the Tariff Commission thereof, with the request that they, and each of them, exert every effort within their power to bring about the enactment of such tariff legislation.

Approved by—

J. E. ERICKSON, *Governor.*

FEBRUARY 19, 1929.

Mr. ROBINSON of Arkansas. Mr. President, I present a resolution adopted by the General Assembly of the State of Arkansas, relating to the bill (S. 4689) introduced by the Senator from Utah [Mr. SMOOT] entitled "A bill to provide for the making of loans to drainage or levee districts, and for other purposes." I ask, in accordance with the custom of the Senate, that the resolution be printed in the RECORD. The measure is one of very great importance and will probably receive the consideration of the Senate at some time during the extra session. It appears probable that it will not be reached during the present session.

The resolution was referred to the Committee on Irrigation and Reclamation, and is as follows:

Senate Resolution 3

Be it resolved by the Senate of the General Assembly of the State of Arkansas (the House of Representatives concurring)—

First. That we heartily approve and indorse Senate bill No. 4689, pending in the Senate of the United States, entitled "A bill to provide for the making of loans to drainage or levee districts, and for other purposes," which would furnish the relief that is imperatively demanded by the lands located in levee and drainage districts in this State.

Second. We urge our Senators and Representatives in Congress to do everything in their power to secure the speedy passage and approval of this bill.

Resolved further, That a copy of this resolution be forwarded at once to each of our Senators and Representatives in Congress.

CERTIFICATE OF SECRETARY

I, E. L. Farris, secretary of the senate, General Assembly of the State of Arkansas, 1929, do hereby certify that the above and foregoing is a true and correct copy of Senate Resolution 3, read and adopted January 21, 1929, and on February 11, 1929, duly signed by the governor.

Witness my hand as such secretary, this the 18th day of February, 1929.

E. L. FARRIS.

Mr. ROBINSON of Arkansas also presented a resolution adopted by the congregation of the First Congregational Church of Gentry, Ark., suggesting that unnaturalized aliens be not enumerated in the reapportionment of congressional districts, which was referred to the Committee on Commerce.

SENATOR FROM PENNSYLVANIA

Mr. REED of Missouri. Mr. President, I desire to present to the Senate a matter of highest privilege at this time, and I hope without interruption. I think I shall be able to conclude what I have to say in a very short time, unless Senators may desire to ask questions. If there are any resolutions or reports of committees or bill to be presented without debate, I will give way now for that purpose.

REPORTS OF COMMITTEES

Mr. NYE, from the Committee on Public Lands and Surveys, to which was referred the resolution (S. Res. 316) to investigate the advisability of establishing certain additional national parks and the proposed changes in, boundary revisions of, and matters relating to, other national parks, reported it without amendment, submitted a report (No. 1902) thereon, and moved that it be referred to the Committee to Audit and Control the Contingent Expenses of the Senate, which was agreed to.

Mr. REED of Pennsylvania, from the Committee on Military Affairs, to which was referred the bill (H. R. 12106) to erect a national monument at Cowpens Battle Ground, reported it with amendments and submitted a report (No. 1903) thereon.

He also, from the same committee, to which was referred the bill (H. R. 8987) for the relief of John R. Butler, reported it without amendment and submitted a report (No. 1904) thereon.

Mr. BROOKHART, from the Committee on Military Affairs, to which was referred the bill (S. 4956) to remove the charge of desertion and grant an honorable discharge to Marion M. Clark, reported it with an amendment and submitted a report (No. 1905) thereon.

Mr. SHEPPARD (for Mr. FLETCHER), from the Committee on Military Affairs, to which was referred the bill (S. 4237) for the relief of Antoine Laporte, alias Frank Lear, reported it with an amendment and submitted a report (No. 1906) thereon.

He also (for Mr. FLETCHER), from the same committee, to which was referred the bill (S. 4825) for the relief of August R. Lundstrom, reported it with amendments and submitted a report (No. 1907) thereon.

Mr. ROBINSON of Indiana, from the Committee on Military Affairs, to which was referred the bill (H. R. 3737) for the relief of John T. O'Neil, reported it with an amendment and submitted a report (No. 1908) thereon.

He also, from the same committee, to which was referred the bill (S. 4356) for the relief of Howard P. Cornick, reported adversely thereon.

Mr. BINGHAM, from the Committee on Military Affairs, to which was referred the bill (S. 5679) for the relief of Charles N. Neal, reported it with an amendment and submitted a report (No. 1914) thereon.

Mr. BLAINE, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 4215) for the relief of Frank L. Merrifield (Rept. No. 1915); and

A bill (H. R. 8598) for the relief of James J. Dower (Rept. No. 1916).

Mr. McMASTER, from the Committee on Claims, to which was referred the bill (S. 4907) for the relief of August Mohr, reported it with an amendment and submitted a report (No. 1909) thereon.

He also, from the same committee, to which was referred the bill (S. 119) for the relief of C. C. Moore & Co., engineers, reported it without amendment and submitted a report (No. 1910) thereon.

Mr. STEIWER, from the Committee on Claims, to which was referred the bill (H. R. 5399) for the relief of George Heitkamp, reported it without amendment and submitted a report (No. 1911) thereon.

Mr. SHEPPARD, from the Committee on Commerce, to which was referred the bill (S. 5860) to authorize the Secretary of Commerce to dispose of the marine biological station at Key West, Fla., reported it with an amendment and submitted a report (No. 1913) thereon.

Mr. McNARY, from the Committee on Commerce, to which was referred the bill (S. 5365) granting the consent of Congress to the State of Oregon and the Haynes Slough Drainage District to construct, maintain, and operate a dam and dike to prevent the flow of tidal waters into Haynes Slough, Coos Bay, Coos County, Oreg., reported it with amendments and submitted a report (No. 1917) thereon.

Mr. WALSH of Montana, from the Committee on the Judiciary, to which was referred the joint resolution (H. J. Res. 368) providing more economical and improved methods for the publication and distribution of the Code of Laws of the United States and of the District of Columbia, and supplements, reported it with an amendment and submitted a report (No. 1919) thereon.

Mr. CAPPER, from the Committee on the District of Columbia, to which was referred the bill (S. 5870) to amend an act regulating the height of buildings in the District of Columbia, approved June 1, 1910, reported it without amendment and submitted a report (No. 1920) thereon.

ENROLLED BILLS PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that to-day that committee presented to the President of the United States the following enrolled bills:

S. 5129. An act authorizing Thomas E. Brooks, of Camp Walton, Fla., and his associates and assigns, to construct, maintain, and operate a bridge across the mouth of Garniers Bayou, at a point where State Road No. 10, in the State of Florida, crosses the mouth of said Garniers Bayou, between Smack Point on the west and White Point on the east, in Okaloosa County, Fla.;

S. 5465. An act authorizing V. Calvin Trice, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Choptank River at a point at or near Cambridge, Md.; and

S. 5630. An act authorizing the State Highway Commission, Commonwealth of Kentucky, to construct, maintain, and operate a bridge across the Ohio River at or near Carrollton, Ky.

OSAGE INDIAN LANDS

Mr. THOMAS of Oklahoma. Mr. President, from the Committee on Indian Affairs, I report back favorably with an amendment the amendment of the House to the bill (S. 2360) to amend section 1 of the act of Congress of March 3, 1921 (41 Stat. L. 1249) entitled "An act to amend section 3 of the act of Congress of June 28, 1906, entitled 'An act for the division

of the lands and funds of the Osage Indians in Oklahoma, and for other purposes.'"

The bill passed the Senate on a former occasion and went to the House and was there amended. The Senate Committee on Indian Affairs recommend that the Senate concur in the House amendment with an amendment. The House amendment is approved by the committee.

Mr. SMOOT. Mr. President, did the Senator state that the House approved the Senate amendment?

Mr. THOMAS of Oklahoma. The bill went to the House and they sent it back with a 10-page amendment relating almost entirely to administrative matters. The Senate Committee on Indian Affairs have considered and approved the House amendment with an amendment. The Bureau of Indian Affairs and all concerned now agree to those amendments as perfected. It affects the Osage Indians and is an administrative matter. It gives the Secretary a little more latitude in the matter of making certain leases.

Mr. SMOOT. It has to go back to the House, of course?

Mr. THOMAS of Oklahoma. Oh, yes. I request that the amendment of the House be read; and then that the amendment reported by the Committee on Indian Affairs to the amendment of the House be read.

The Chief Clerk read the amendment of the House, as follows:

Strike out all after the enacting clause and insert:

"That section 1 of the act of Congress of March 3, 1921 (41 Stat. L. 1249), relating to the Osage Indians of Oklahoma, be, and the same is hereby, amended to read as follows:

"'That all that part of the act of June 28, 1906 (34 Stat. L. 539), entitled "An act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes," which reserves to the Osage Tribe the oil, gas, coal, or other minerals, covered by the lands for the selection and division of which provision is made in that act is hereby amended so that the oil, gas, coal, or other minerals, covered by said lands are reserved to the Osage Tribe, until the 8th day of April, 1958, unless otherwise provided by Act of Congress, and all royalties and bonuses arising therefrom shall belong to the Osage Tribe of Indians, and shall be disbursed to members of the Osage Tribe or their heirs or assigns as now provided by law, after reserving such amounts as are now or may hereafter be authorized by Congress for specific purposes.

"'The lands, moneys, and other properties now or hereafter held in trust or under the supervision of the United States for the Osage Tribe of Indians, the members thereof, or their heirs and assigns shall continue subject to such trust and supervision until January 1, 1959, unless otherwise provided by act of Congress.

"'The Secretary of the Interior and the Osage tribal council are hereby authorized and directed to offer for lease for oil, gas, and other mining purposes any unleased portion of said land in such quantities and at such times as may be deemed for the best interest of the Osage Tribe of Indians: *Provided*, That not less than 25,000 acres shall be offered for lease for oil and gas mining purposes during any one year: *Provided further*, That as to all lands hereafter leased, the regulations governing same and the leases issued thereon shall contain appropriate provisions for the conservation of the natural gas for its economic use, to the end that the highest percentage of ultimate recovery of both oil and gas may be secured: *Provided, however*, That nothing herein contained shall be construed as affecting any valid existing lease for oil or gas or other minerals, but all such leases shall continue as long as gas, oil, or other minerals are found in paying quantities.

"'Homestead allotments shall remain exempt from taxation while the title remains in the original allottee of one-half or more of Osage Indian blood and in his unallotted heirs or devisees of one-half or more of Osage Indian blood until January 1, 1959: *Provided*, That the tax-exempt land of any such Indian allottee, heir, or devisee shall not at any time exceed 160 acres.'

"SEC. 2. That section 2 of the act of March 3, 1921 (41 Stat. L. 1249), entitled 'An act to amend section 3 of the act of Congress of June 28, 1906, entitled "An act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes," be, and the same is hereby, amended to read as follows:

"'The bona fide owner or lessee of the surface of the land shall be compensated, under rules and regulations prescribed by the Secretary of the Interior in connection with oil and gas mining operations, for any damage that shall accrue after the passage of this act as a result of the use of such land for oil or gas mining purposes, or out of damages to the land or crops thereon, occasioned thereby, but nothing herein contained shall be construed to deny to the surface owner or lessee the right to appeal to the courts, without the consent of the Secretary of the Interior, in the event he is dissatisfied with the amount of damages awarded him. All claims for damages arising under this section shall be settled by arbitration under rules and regulations to be prescribed by the Secretary of the Interior; but either party shall have the right to appeal to the courts without consent of the Secretary of the Interior in the event he is dissatisfied with the award to or against him. The appeal herein authorized shall consist of filing an original action in any court of competent jurisdiction sitting at the county seat of Osage County, to enlarge, modify or set aside the award, and in any such action, upon demand of either party, the issues, both of law and of fact shall be tried de novo. Arbitration, or a bona fide offer in writing to arbitrate, shall constitute conditions precedent to the right to sue for such damages: *Provided*, That nothing herein contained shall preclude the institution of any such suit in a Federal court having jurisdiction thereof, or the removal to said court of any such suit brought in the State court, which under Federal law may be removed to the Federal court.'

"SEC. 3. That section 1 of the act of Congress of February 27, 1925 (43 Stat. L. 1008), is hereby amended by ading thereto the following:

"'The Secretary of the Interior be, and is hereby, authorized, in his discretion, under such rules and regulations as he may prescribe, upon application of any member of the Osage Tribe of Indians not having a certificate of competency, to pay all or any part of the funds held in trust for such Indian: *And provided further*, That nothing herein contained shall be construed to interfere in any way with the removal by the Secretary of the Interior of restrictions from and against any Osage Indian at any time.'

"SEC. 4. That section 2 of the act of Congress approved February 27, 1925 (43 Stat. L. 1011), being an act to amend the act of Congress of March 3, 1921 (41 Stat. L. 1249), be, and the same is hereby, amended to read as follows:

"'Upon the death of an Osage Indian of one-half or more Indian blood who does not have a certificate of competency, his or her moneys and funds and other property accrued and accruing to his or her credit and which have heretofore been subject to supervision as provided by law may be paid to the administrator or executor of the estate of such deceased Indian or direct to his heirs or devisees, or may be retained by the Secretary of the Interior in the discretion of the Secretary of the Interior, under regulations to be promulgated by him: *Provided*, That the Secretary of the Interior shall pay to administrators and executors of the estates of such deceased Osage Indians a sufficient amount of money out of such estates to pay all lawful indebtedness and costs and expenses of administration when approved by him; and, out of the shares belonging to heirs or devisees, above referred to, he shall pay the costs and expenses of such heirs or devisees, including attorney fees, when approved by him, in the determination of heirs or contest of wills. Upon the death of any Osage Indian of less than one-half of Osage Indian blood or upon the death of an Osage Indian who has a certificate of competency, his moneys and funds and other property accrued and accruing to his credit shall be paid and delivered to the administrator or executor of his estate to be administered upon according to the laws of the State of Oklahoma: *Provided*, That upon the settlement of such estate any funds or property subject to the control or supervision of the Secretary of the Interior on the date of the approval of this act, which have been inherited by or devised to any adult or minor heir or devisee of one-half or more Osage Indian blood who does not have a certificate of competency, and which have been paid or delivered by the Secretary of the Interior to the administrator or executor shall be paid or delivered by such administrator or executor to the Secretary of the Interior for the benefit of such Indian and shall be subject to the supervision of the Secretary as provided by law.'

"SEC. 5. The restrictions concerning lands and funds of allotted Osage Indians, as provided in this act and all prior acts now in force, shall apply to unallotted Osage Indians born since July 1, 1907, or after the passage of this act, and to their heirs of Osage Indian blood: *Provided further*, That the Secretary of the Interior is hereby authorized in his discretion to grant a certificate of competency to any unallotted Osage Indian when in the judgment of the said Secretary such member is fully competent and capable of transacting his or her own affairs.

"SEC. 6. That section 9 of the act of Congress approved June 28, 1906 (34 Stat. L. 539), be, and the same is hereby, amended to read as follows:

"'That there shall be a quadrennial election of officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage tribal council, to succeed the officers elected in the year 1928, said officers to be elected at a general election to be held in the town of Pawhuska, Okla., on the first Monday in June, 1930, and on the first Monday in June each four years thereafter, in the manner to be prescribed by the Commissioner of Indian Affairs, and said officers shall be elected for a period of four years commencing on the 1st day of July following said elections, and in case of vacancy in the office of principal chief or other such officer by death, resignation, or otherwise, the vacancies of the Osage tribal council shall be filled in a manner to be prescribed by the Osage tribal council, and the Secretary of the Interior is hereby authorized to remove from the council any member or members thereof for good cause, to be by him determined, after the party involved has had due notice and opportunity to appear and defend himself, and said tribal government so constituted shall continue in full force and effect to January 1, 1959.'"

The CHIEF CLERK. The Committee on Indian Affairs reports to amend the amendment of the House of Representatives by inserting in lieu of the House amendment the following:

That section 1 of the act of Congress of March 3, 1921 (41 Stat. L. 1249), relating to the Osage Indians of Oklahoma, be, and the same is hereby, amended to read as follows:

"That all that part of the act of June 28, 1906 (34 Stat. L. 539), entitled 'An act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes,' which reserves to the Osage Tribe the oil, gas, coal, or other minerals, covered by the lands for the selection and division of which provision is made in that act is hereby amended so that the oil, gas, coal, or other minerals, covered by said lands are reserved to the Osage Tribe, until the 8th day of April, 1958, unless otherwise provided by act of Congress, and all royalties and bonuses arising therefrom shall belong to the Osage Tribe of Indians, and shall be disbursed to members of the Osage Tribe or their heirs or assigns as now provided by law, after reserving such amounts as are now or may hereafter be authorized by Congress for specific purposes.

"The lands, moneys, and other properties now or hereafter held in trust or under the supervision of the United States for the Osage Tribe of Indians, the members thereof, or their heirs and assigns, shall continue subject to such trust and supervision until January 1, 1959, unless otherwise provided by act of Congress.

"The Secretary of the Interior and the Osage tribal council are hereby authorized and directed to offer for lease for oil, gas, and other mining purposes any unleased portion of said land in such quantities and at such times as may be deemed for the best interest of the Osage Tribe of Indians: *Provided,* That not less than 25,000 acres shall be offered for lease for oil and gas mining purposes during any one year: *Provided further,* That as to all lands hereafter leased, the regulations governing same and the leases issued thereon shall contain appropriate provisions for the conservation of the natural gas for its economic use, to the end that the highest percentage of ultimate recovery of both oil and gas may be secured: *Provided, however,* That nothing herein contained shall be construed as affecting any valid existing lease for oil or gas or other minerals, but all such leases shall continue as long as gas, oil, or other minerals are found in paying quantities.

"Homestead allotments of Osage Indians not having a certificate of competency shall remain exempt from taxation while the title remains in the original allottee of one-half or more of Osage Indian blood and in his unallotted heirs or devisees of one-half or more of Osage Indian blood until January 1, 1959: *Provided* That the tax-exempt land of any such Indian allottee, heir, or devisee shall not at any time exceed 160 acres."

SEC. 2. That section 2 of the act of March 3, 1921 (41 Stat. L. 1249), entitled "An act to amend section 3 of the act of Congress of June 28, 1906, entitled 'An act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes,'" be, and the same is hereby, amended to read as follows:

"The bona fide owner or lessee of the surface of the land shall be compensated, under rules and regulations prescribed by the Secretary of the Interior in connection with oil and gas mining operations, for any damage that shall accrue after the passage of this act as a result of the use of such land for oil or gas mining purposes, or out of damages to the land or crops thereon, occasioned thereby, but nothing herein contained shall be construed to deny to the surface owner or lessee the right to appeal to the courts, without the consent of the Secretary of the Interior, in the event he is dissatisfied with the amount of damages awarded him. All claims for damages arising under this section shall be settled by arbitration under rules and regulations to be prescribed by the Secretary of the Interior; but either party shall have the right to appeal to the courts without consent of the Secretary of the Interior in the event he is dissatisfied with the award to or against him. The appeal herein authorized shall consist of filing an original action in any court of competent jurisdiction sitting at the county seat of Osage County, to enlarge, modify, or set aside the award, and in any such action, upon demand of either party, the issues, both of law and of fact shall be tried de novo before a jury upon the request of either party. Arbitration, or a bone fide offer in writing to arbitrate, shall constitute conditions precedent to the right to sue for such damages: *Provided,* That nothing herein contained shall preclude the institution of any such suit in a Federal court having jurisdiction thereof, or the removal to said court of any such suit brought in the State court, which under Federal law may be removed to the Federal court: *Provided further,* That nothing herein shall be construed to limit the time for any action to be filed to less than 90 days."

SEC. 3. That section 1 of the act of Congress of February 27, 1925 (43 Stat. L. 1008), is hereby amended by adding thereto the following:

"The Secretary of the Interior be, and is hereby, authorized, in his discretion, under such rules and regulations as he may prescribe, upon application of any member of the Osage Tribe of Indians not having a certificate of competency, to pay all or any part of the funds held in trust for such Indian: *Provided,* That the Secretary of the Interior shall, within one year after this act is approved, pay to each enrolled Indian of less than half Osage blood, one-fifth part of his or her proportionate share of accumulated funds. And such Secretary shall, on or before the expiration of 10 years from the date of the approval of this act, advance and pay over to such Osage Indian of less than one-half Osage Indian blood all of the balance appearing to his credit of accumulated funds, and shall issue to such Indian a certificate of competency: *And provided further,* That nothing herein contained shall be construed to interfere in any way with the removal by the Secretary of the Interior of restrictions from and against any Osage Indian at any time."

SEC. 4. That section 2 of the act of Congress approved February 27, 1925 (43 Stat. L. 1011), being act to amend the act of Congress of March 3, 1921 (41 Stat. L. 1249), be, and the same is hereby, amended to read as follows:

"Upon the death of an Osage Indian of one-half or more Indian blood who does not have a certificate of competency, his or her moneys and funds and other property accrued and accruing to his or her credit and which have heretofore been subject to supervision as provided by law may be paid to the administrator or executor of the estate of such deceased Indian or direct to his heirs or devisees, or may be retained by the Secretary of the Interior in the discretion of the Secretary of the Interior, under regulations to be promulgated by him: *Provided,* That the Secretary of the Interior shall pay to administrators and executors of the estates of such deceased Osage Indians a sufficient amount of money out of such estate to pay all lawful indebtedness and costs and expenses of administration when approved by him; and, out of the shares belonging to heirs or devisees, above referred to, he shall pay the costs and expenses of such heirs or devisees, including attorney fees, when approved by him, in the determination of heirs or contest of wills. Upon the death of any Osage Indian of less than one-half of Osage Indian blood or upon the death of an Osage Indian who has a certificate of competency, his moneys and funds and other property accrued and accruing to his credit shall be paid and delivered to the administrator or executor of his estate to be administered upon according to the laws of the State of Oklahoma: *Provided,* That upon the settlement of such estate any funds or property subject to the control or supervision of the Secretary of the Interior on the date of the approval of this act, which have been inherited by or devised to any adult or minor heir or devisee of one-half or more Osage Indian blood who does not have a certificate of competency, and which have been paid or delivered by the Secretary of the Interior to the administrator or executor shall be paid or delivered by such administrator or executor to the Secretary of the Interior for the benefit of such Indian and shall be subject to the supervision of the Secretary as provided by law."

SEC. 5. The restrictions concerning lands and funds of allotted Osage Indians, as provided in this act and all prior acts now in force, shall apply to unallotted Osage Indians born since July 1, 1907, or after the passage of this act, and to their heirs of Osage Indian blood, except that the provisions of section 6 of the act of Congress approved February 27, 1925, with reference to the validity of contracts for debt, shall not apply to any allotted or unallotted Osage Indian of less than one-half degree Indian blood: *Provided,* That the Osage lands and funds and any other property which has heretofore or which may hereafter be held in trust or under supervision of the United States for such Osage Indians of less than one-half degree Indian blood not having a certificate of competency shall not be subject to forced sale to satisfy any debt or obligation contracted or incurred prior to the issuance of a certificate of competency: *Provided further,* That the Secretary of the Interior is hereby authorized in his discretion to grant a certificate of competency to any unallotted Osage Indian when in the judgment of the said Secretary such member is fully competent and capable of transacting his or her own affairs.

SEC. 6. All just existing obligations of restricted Osage Indians outstanding January 1, 1929, when approved by the superintendent of the Osage Agency, shall be paid out of the money of such Indian appearing to his credit, in addition to his quarterly allowance: *And provided further,* That nothing herein contained shall be construed to interfere in any way with the granting of a certificate of competency by the Secretary of the Interior, as provided for by existing law, at any time after the payment of all of his or her just debts (as herein provided) which have been presented to and approved by the superintendent of the Osage Indian Agency.

SEC. 7. That section 9 of the act of Congress approved June 28, 1906 (34 Stat. L. 539), be, and the same is hereby, amended to read as follows:

"That there shall be a quadrennial election of officers of the Osage Tribe as follows: A principal chief, an assistant principal chief, and eight members of the Osage tribal council, to succeed the officers elected in the year 1928, said officers to be elected at a general election to be held in the town of Pawhuska, Okla., on the first Monday in June, 1930, and on the first Monday in June each four years thereafter, in the manner to be prescribed by the Commissioner of Indian Affairs, and said officers shall be elected for a period of four years commencing on the 1st day of July following said elections, and in case of vacancy in the office of principal chief or other such officer by death, resignation,

or otherwise, the vacancies of the Osage tribal council shall be filled in a manner to be prescribed by the Osage tribal council, and the Secretary of the Interior is hereby authorized to remove from the council any member or members thereof for good cause, to be by him determined, after the party involved has had due notice and opportunity to appear and defend himself, and said tribal government so constituted shall continue in full force and effect to January 1, 1959."

Amend the title so as to read: "A bill relating to the tribal and individual affairs of the Osage Indians of Oklahoma."

The VICE PRESIDENT. The question is on agreeing to the amendment of the committee to the House amendment.

The amendment to the House amendment was agreed to.

The amendment as amended was concurred in.

BILLS INTRODUCED

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

By Mr. THOMAS of Oklahoma:

A bill (S. 5881) authorizing H. L. Cloud, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Canadian River suitable to the interests of navigation, at or near Francis, Okla.; to the Committee on Commerce.

By Mr. METCALF:

A bill (S. 5882) granting a pension to Eliza Swan (with accompanying papers);

A bill (S. 5883) granting an increase of pension to Sarah M. Lewis (with accompanying papers);

A bill (S. 5884) granting an increase of pension to Hannah M. Mather (with accompanying papers); and

A bill (S. 5885) granting an increase of pension to Flora P. W. Hunt (with accompanying papers); to the Committee on Pensions.

By Mr. GOFF:

A bill (S. 5886) providing for the advancement on the retired list of the Army of Col. D. B. Devore (with an accompanying paper); to the Committee on Military Affairs.

H. E. JONES

By Mr. SWANSON:

A bill (S. 5887) for the relief of H. E. Jones; to the Committee on Claims.

Subsequently Mr. BLACK, from the Committee on Claims, to which was referred the bill (S. 5887) for the relief of H. E. Jones, reported it without amendment and submitted a report (No. 1922) thereon.

AMENDMENTS TO DEFICIENCY APPROPRIATION BILL

Mr. THOMAS of Oklahoma submitted an amendment intended to be proposed by him to House bill 17223, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed:

On page —, line —, insert the following:

"That the Secretary of the Interior is authorized and directed to use not to exceed the sum of $2,000 from the tribal funds of the Wichita and Affiliated Bands of Indians of Oklahoma in the Treasury of the United States, upon proper vouchers to be approved by him, for costs and expenses already incurred and those to be incurred by their duly authorized attorneys in the prosecution of the claims of said Indians now pending in the Court of Claims, Docket No. E–542, including expenses of not exceeding two delegates from said bands of Indians, to be designated by the business committee representing all said bands, who may be called to Washington from time to time with the permission of the Commissioner of Indian Affairs on business connected with said claims, said $2,000 to remain available until expended."

Mr. EDGE submitted an amendment intended to be proposed by him to House bill 17223, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed:

On page —, line —, insert the following:

"For services performed in connection with the work in the Senate Library and Document Room, as follows: To James Payne, $210; to Richard Blount, $210; in all, $420."

Mr. HARRIS submitted an amendment intended to be proposed by him to House bill 17223, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed:

On page 64, strike out lines 3 to 11, inclusive, and insert in lieu thereof the following:

"For increasing the enforcement force, $24,000,000, or such part thereof as the President may deem useful, to be allocated by the President, as he may see fit, to the departments or bureaus charged with the enforcement of the national prohibition act, and to remain available until June 30, 1930."

Mr. BROOKHART submitted an amendment intended to be proposed by him to House bill 17223, the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

Strike out, beginning on page 150, line 11, and ending on page 152, line 14, and insert the following:

"*Provided*, That section 13 of the classification act of 1923 as amended by the act of May 28, 1928, is hereby amended by providing, effective on the 1st day of the month succeeding the enactment of this act, one additional salary rate as a maximum rate, which will add one increment or step-up in each of the professional and scientific grades from 1 to 5, inclusive; all grades of subprofessional service; clerical, administrative, and fiscal services, from 1 to 12, inclusive; and the custodial service, grades 2 and 4 to 10, inclusive: *Provided further*, That in the clerical-mechanical service, the rate of compensation for classes of positions in grade 1 shall be 55 to 60 cents an hour; grade 2, 65 to 70 cents an hour; and grade 3, 75 to 80 cents an hour: *Provided further*, That the heads of the executive departments and independent establishments pursuant to authority to adjust the pay of certain employees in the departmental and field service shall, effective the 1st day of the month succeeding the passage of this act, readjust the compensation of the grades of the departmental services herein named and the corresponding field service positions, so that employees whose positions were affected by the act of May 28, 1928, and who did not receive an increase in salary the equivalent of two steps, or salary rates in their respective grades shall be given such additional step or steps or salary rate or rates within the grade as may be necessary to equal such increase: *And provided further*, That there is hereby appropriated out of the Treasury from any moneys not otherwise appropriated sufficient sums to readjust the salaries as herein directed during the remainder of the fiscal year 1929 and during the fiscal year 1930."

PROPOSED CONFERENCE FOR LIMITATION OF ARMIES

Mr. TYDINGS submitted a resolution (S. Res. 338), which was ordered to lie on the table, as follows:

Whereas 62 nations, through their representatives, are now signatory or have expressed their willingness to adhere to a treaty outlawing war as an instrument of national policy, wherein said nations have agreed to settle all disputes, no matter how they may arise, by pacific means; and

Whereas many of the governments of the world, though actually at peace, are now maintaining standing armies to the extent of one soldier for every 250 men, women, and children, or less, with active reserves and supplementary troops in even higher proportion; and

Whereas the continuance of these large military establishments on land is unnecessary in times of peace, is in contradiction of the spirit of said treaty, and creates distrust and fear in the people of one nation for those of another nation, and seriously calls into question the integrity of the treaty itself; and

Whereas in order to achieve the highest confidence in said treaty and to accomplish its purposes the causes for fear and distrust must first be eliminated; and

Whereas curtailment of armies, reserves, and supplementary troops can not be hoped for unless all the nations maintaining them effect such curtailment simultaneously: Now, therefore, be it

Resolved, That the President of the United States is hereby requested to send an invitation to every nation which has, in whole or in part, been signatory to the treaty outlawing war, ratified by the Senate of the United States on January 15, 1929, requesting said nations to send duly authorized delegates to an international conference for the purpose of agreeing by treaty to a limitation of size, in accordance with the population, by said nations attending said conference, of standing armies, active reserves, and supplementary troops.

HEARINGS BEFORE THE BANKING AND CURRENCY COMMITTEE

Mr. NORBECK submitted the following resolution (S. Res. 340), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Banking and Currency, or any subcommittee thereof, hereby is authorized during the Seventy-first Congress to send for persons, books and papers, to administer oaths, and to employ a stenographer at a cost not exceeding 25 cents per 100 words, to report such hearings as may be had in connection with any subject which may be before said committee, the expensse thereof to be paid out of the contingent fund of the Senate; and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

ST. PETERSBURG HARBOR, FLA. (S. DOC. NO. 229)

Mr. JONES submitted a letter from the Secretary of War, transmitting a report from the Chief of Engineers, United States Army, submitting, in response to a resolution of the Senate Committee on Commerce, a report from the Chief of Engineers, United States Army, relative to a review of reports heretofore submitted on St. Petersburg Harbor, Fla., with a

view to determining whether any modification should be made in any existing project, which was referred to the Committee on Commerce and ordered to be printed with an illustration.

ADMINISTRATION OF EMERGENCY OFFICERS' RETIREMENT ACT

Mr. TYSON. Mr. President, I ask unanimous consent to have printed as a Senate document the decisions of the Attorney General of the United States and of the Comptroller General relating to the administration of the emergency officers' retirement act. I have already had inserted in the CONGRESSIONAL RECORD of January 21, 1929, two opinions of the Attorney General, and in the RECORD of February 7, commencing at page 3036. Senators will find opinions of the Comptroller General. Since that date, on February 11, further opinions of the Comptroller General affecting the administration of the law have been rendered.

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

PRACTICE OF THE HEALING ART IN THE DISTRICT

Mr. COPELAND submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3936) entitled "An act to regulate the practice of the healing art to protect the public health in the District of Columbia," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 3, 4, and 5, and agree to the same.

Amendment numbered 6: That the Senate recede from its disagreement to the amendment of the House numbered 6, and agree to the same with an amendment as follows: In lieu of the language inserted by the Houses insert the following after the letters "tion," in line 5, page 38: "and practitioners of clystertory treatment"; and the House agree to the same.

ARTHUR CAPPER,
A. H. VANDENBERG,
ROYAL S. COPELAND,
Managers on the part of the Senate.

FREDK. N. ZIHLMAN,
FRANK L. BOWMAN,
THOMAS L. BLANTON,
Managers on the part of the House.

The report was agreed to.

PRESIDENTIAL APPROVALS

A message from the President of the United States, by Mr. Latta one of his secretaries, announced that the President had approved and signed the following acts and joint resolution:

On February 23, 1929:

S. 1500. An act for the relief of James J. Welsh, Edward C. F. Webb, Francis A. Meyer, Mary S. Bennett, William McMullin, jr., Margaret McMullin, R. B. Carpenter, McCoy Yearsley, Edward Yearsley, George H. Bennett, jr., Stewart L. Beck, William P. McConnell, Elizabeth J. Morrow, William B. Jester, Josephine A. Haggan, James H. S. Gam, Herbert Nicoll, Shallcross Bros., E. C. Buckson, Wilbert Rawley, R. Rickards, Jr., Dredging Co.

On February 25, 1929:

S. 1618. An act for the relief of Margaret W. Pearson and John R. Pearson, her husband;

S. 3848. An act creating the Mount Rushmore National Memorial Commission and defining its purposes and powers;

S. 5179. An act to improve the efficiency of the Lighthouse Service, and for other purposes; and

S. J. Res. 182. Joint resolution for the relief of farmers in the storm and flood stricken areas of Virginia, North Carolina, South Carolina, Georgia, Florida, and Alabama.

ADDRESS OF ASSOCIATE JUSTICE HARLAN F. STONE

Mr. WALSH of Massachusetts. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD the able address delivered by the Hon. Harlan F. Stone, Associate Justice of the United States Supreme Court, at the semicentennial meeting of the American Bar Association at Seattle in July, 1928.

Mr. Justice Stone's address was entitled "Fifty Years' Work of the United States Supreme Court." Among other subjects, the able jurist deals with the effect of certain devices proposed to limit power of the court to declare statutes unconstitutional, how the court does its work, the value of dissenting opinions; in a word, the address is an excellent résumé of the last 50 years of the work of the United States Supreme Court.

The VICE PRESIDENT. Without objection it is so ordered.

The address is as follows:

FIFTY YEARS' WORK OF THE UNITED STATES SUPREME COURT—GREAT INDUSTRIAL AND COMMERCIAL EXPANSION FOLLOWING INITIAL STAGES OF CIVIL WAR RECONSTRUCTION HAS FURNISHED MOST OF THE GREAT QUESTIONS BEFORE THE COURT IN THE LAST 50 YEARS AND THE FACT MATERIAL OUT OF WHICH HAVE COME THE SIGNIFICANT DEVELOPMENTS IN CONSTITUTIONAL AND PRIVATE LAW—FAR-REACHING DECISIONS UNDER COMMERCE CLAUSE AND APPLYING PROVISIONS OF FOURTEENTH AMENDMENT—EFFECT OF CERTAIN DEVICES PROPOSED TO LIMIT POWER OF COURT TO DECLARE STATUTES UNCONSTITUTIONAL—HOW THE COURT DOES ITS WORK, ETC.

By Hon. Harlan F. Stone, Associate Justice of the United States Supreme Court

When, in an amiable and unguarded moment, I accepted Mr. Strawn's invitation to speak here this evening, I fear I did not appreciate how difficult it is for a judge to make an address not wholly devoid of human interest, and at the same time avoid making it an arsenal from which counsel may, to his utter confusion and undoing, draw ammunition for future conflicts at the bar.

In younger and more innocent days, with no premonitions of the future, I took the time from busy days at the bar to write occasional articles in the law journals on matters of scientific and technical interest, only to experience, in a repentant old age, the unhappy fate of hearing them on occasion cited to me in court in support of both sides of the same question. However much the judge may become accustomed and reconciled to such startling agility of counsel, it requires a larger judicial experience than mine to prepare one to face with equanimity the varying implications which may be drawn by diligent counsel from his own innocent remarks. So if what I am about to say should prove to be more dull and uninteresting than even judicial pronouncements are wont to be, I should like to persuade myself that you would attribute it to a newly developed instinct of self-preservation, cautiously applied with an eye to the future.

In the realm of law it is not the old and settled but the new and unsettled questions which stir the interest and invite discussion; but from all such allurements I turn aside to examine in retrospect some phases of the work of the great court of which I chance to be the youngest and least experienced member.

And it is altogether appropriate that on the conclusion of the first 50 years of the association's existence we should recall some of the more significant developments in the history of the court during the same period. It is worthy of note that the last and in many respects the most striking phase of its history coincides with the life of this association. The first phase embraces that early period when it became established as a court, and by recourse to those methods and processes with which lawyers have been familiar for centuries for the first time in history made all the agencies of a government subject to the supremacy of a constitution. That period ended with the death of the great Chief Justice in 1835.

During the next 40 years the drama of the slavery struggle, the Civil War, and reconstruction occupied the stage of American history. Out of the varying phases of that struggle came the great questions with which the court in that period was called on to deal. Of lesser public interest, but still of vital importance to the progress of the law and to the future of the expanding Nation, were the development by the court during those years of the beginnings of public and private law affecting business corporations and the first steps toward the nationalistic interpretation of the commerce clause of the Constitution.

In 1878, just 50 years ago, a change in the character of the questions to which the court was addressing itself was apparent. Following the initial stages of Civil War reconstruction came the era of railway building, the rise of the business corporation as an instrumentality of business and commerce, and the beginning of the great industrial and commercial expansion of the Nation. This expansion, which was well under way in the early eighties, has continued with accelerated speed and broadening scope down to the present day. In it have originated most of the great questions which have engaged the attention of the court during the last 50 years, and it has furnished the fact material out of which have come the significant developments both of the constitutional and the private law applied by the court during the last phase of its history.

The changing personnel of the court during this, as in earlier periods, gives a note of human interest to an institution which from the beginning has seemed singularly impersonal. Fifty years ago this year the court was presided over by Chief Justice Waite, whom President Grant had appointed to that office two years before. Among the eight Associate Justices were Justice Bradley, Field, Harlan, and Miller, who now, after half a century, still stand out among the great figures of the court. Since then three Chief Justices and twenty-nine Associate Justices have been appointed. Chief Justice Fuller was appointed by President Cleveland in 1888, Chief Justice White by President Taft in 1910, and Ex-President Taft himself became Chief Justice in 1921. The terms of seven Chief Justices, the last, our present Chief Justice, still actively carrying on the duties of his office, have thus spanned the 127 years since the appointment of Chief Justice Marshall, and during the entire history of the court 10 chief justices

and 65 associates have sat upon its bench. In 1897, Mr. Justice Field, then 83 years of age, retired from the bench, after a service of 34 years, exceeding by a few months that of Chief Justice Marshall, and exceeding that of Chief Justice Taney, whose death in 1864, in his eighty-eighth year, had closed a service of 28 years. And to-day Mr. Justice Holmes, in his eighty-eighth year, with youthful spirit unabated, is still actively carrying on his work as a Justice of the court, after 26 years of service, and a total judicial service in the Supreme Court of the United States, and the Supreme Judicial Court of Massachusetts, of which he was formerly chief justice, of more than 46 years.

The last 50 years of the work of the court is represented by the series of official reports extending from the ninety-seventh volume to the two hundred and seventy-sixth volume, now in the press, making 179 volumes in all, a monument to the scholarship, skill, and patient industry of the judges. In these volumes will be found opinions of far-reaching importance which have profoundly influenced the course of development of the American system of constitutional government, and in them we discern those trends of the law which are of especial interest and importance in any attempt to review the progress of the work of the court during the last half century.

Of outstanding importance are the decisions of the court under the commerce clause and the great judgments giving definition and application to the provisions of the fourteenth amendment. Of relatively less moment, but still of the highest importance in any consideration of the development of the law in the last half century, are cases in numerous other widely varying fields of law which during that period have been extended and intensively tilled by the court.

To them, with the time at my command, only brief reference can be made. By the decision two years ago in Meyers *v.* United States (272 U. S. 52), after more than 137 years of public debate both in and out of Congress, it was settled that the executive power vested in the President by the Constitution included the power to remove an inferior officer appointed by him, and was not subject to limitation by Congress. Of lesser significance, because of the final outcome, but nevertheless attracting wide attention at the time, was the battle over the constitutionality of the Federal income tax, finally settled by the adoption of the sixteenth amendment.

During the last 30 years we have witnessed the striking extension of Federal police power, effected not directly by court actoin but by acts of Congress in the exercise of powers incidental to the constitutional power to tax, to regulate commerce, to make treaties, and finally the power to prohibit trafficking in intoxicating liquors conferred by the eighteenth amendment. The progressive occupation and expansion of this field have enlarged enormously the Federal power and increased correspondingly the number and variety of questions brought to the court for solution. Of great juristic interest also, although not necessarily involving constitutional questions, were the legal battles under the Sherman Act, with their far-reaching consequences to business and industry, the increasing resort to the original jurisdiction of the court in suits between States, and the extension of the equity jurisdiction of the Federal courts for the appointment of receivers for insolvent corporations.

Turning points in the application of the Sherman Act were the Trans-Missouri Freight Association case (166 U. S. 290), the Northern Securities case (193 U. S. 197), the Standard Oil and Tobacco cases (221 U. S. 1 and 106), in which the court declared that only unreasonable restraints were prohibited; United States *v.* Trenton Potteries Co. (273 U. S. 392), in which the court held specifically what had been implied in earlier decisions, that agreements fixing the prices of commodities sold in interstate commerce are in themselves unreasonable and illegal restraints, regardless of the reasonableness of the price agreed upon. In the Maple Flooring and Cement Manufacturers' Association cases (268 U. S. 563 and 588) it was held that the mere gathering and dissemination by trade associations of information as to the economic status of a trade or business, even though by the operation of economic laws they might indirectly affect prices, were not a violation of the statute when there was no agreement, express or implied, to fix prices or otherwise restrain commerce. The court entered a new field in the enforcement of the act in the Duplex Printing Co. case (254 U. S. 443) and the Bedford Stone case (274 U. S. 37), in which the rule was stated broadly that strikes by labor unions in one State against the use of material prepared by nonunion labor in another were restraints of interstate commerce in such materials and violations of the act.

In the exercise of original jurisdiction in suits between States, in boundary disputes, in suits involving the disposition of public waters, in suits concerning nuisances maintained in one State to the detriment of citizens of another, the court has found it necessary to build up its own system of common law, defining these rights which one State may assert against another.

The development of the doctrine of equity receiverships in cases where there is diversity of citizenship has added an important field to the jurisdiction of the Federal courts and afforded to suitors a more complete remedy than it is possible for State courts to give. For only in the Federal courts is it possible to secure a uniform administration of the assets of insolvent corporations where their property is located in different States, and by making bills for foreclosure ancillary to the bill to appoint equity receivers in insolvency proceedings it has become possible to secure a uniform foreclosure of mortgages of railroad systems and other corporate properties extending into many States.

But it is the decisions of the court under the commerce clause and the fourteenth amendment to which we must recur as representing the most significant developments in the constitutional field. Before 1860 the court had rendered only 20 decisions under the commerce clause, dealing principally with navigation, immigration, slavery, and the liquor traffic. After the Civil War, with the era of railroad building and business depression and the multiplication of business corporations carrying on their business across State lines, there arose the inevitable conflict of interest between local regulation and taxation and the power to regulate reserved to the Federal Government by the commerce clause. By 1870 there had been in all only 30 decisions of the court under this clause, but keeping pace with the rising tide of business enterprise, the decisions numbered 77 by 1880 and 148 by 1890. During these periods, for the first time, cases affecting railroads, telegraph lines, sales of goods across State lines, and taxation affecting commerce predominated.

Great as is the practical wisdom exhibited in all the provisions of the Constitution, and important as were the character and influence of those who secured its adoption, it will, I believe, be the judgment of history that the commerce clause and the wise interpretation of it, perhaps more than any other contributing element, have united to bind the several States into a nation.

Beginning soon after the appointment of Chief Justice Waite and continuing down to the present time there has come from the court the series of decisions defining the powers of the national Government over commerce. They present an impressive record of the application of constitutional principles to the growing needs and interests of the expanding nation. Here, as elsewhere in the application of the Constitution, the problem has been to maintain the national interest and at the same time bring it into an effective harmony with local interests and the principles of local government.

On the whole, essentially local interests have been preserved both in the field of regulation and in that of taxation, but whatever has vitally concerned the free flow of the very lifeblood of the Nation in its commerce has been dealt with on broadly nationalistic lines and step by step brought completely within the power of the Federal Government. This development of the Constitution, culminated perhaps in Wabash, St. Louis & Pacific Railway *v.* Illinois (118 U. S. 537), holding a State without power to regulate rates within its borders where the commerce was interstate, and in the Minnesota rate case (230 U. S. 352), upholding the Federal power to fix intrastate rates for interstate carriers. Again it was carried to its logical conclusion where the path of the fifth amendment, paralleling the fourteenth, converged with that of the commerce clause when the court held in Interstate Commerce Commission v. Brimson (154 U. S. 447) that these clauses permit regulation of the rates of interstate carriers by the Interstate Commerce Commission; and in the Second Employers' Liability cases (223 U. S. 1), holding that Congress has power to enact employers' liability acts applicable to carriers in interstate commerce and varying the common-law rules of employers' liability.

With the advent of the automobile, for the first time since the court was organized, there has developed a nation-wide volume of interstate carriage not confined to waterways or to the rails or rights of way of the carriers, but carried on over public highways which are under State or municipal control. This new type of commerce has thus presented to the court for determination an entirely new class of questions, involving the extent of the power of a State in the regulation of its own highways and in taxation for their upkeep to affect this new type of interstate traffic. The improvement of the airplane and growth of interstate carriage by that vehicle of commerce and the use of the radio as an instrumentality of commerce will likewise present questions differing in many respects from those which have heretofore engaged the attention of the court.

In these fields, as in others where inferstate commerce is concerned, it seems clear that the function of the court must continue to be, as in the past, to prevent discrimination and the erection of barriers against interstate commerce, but upon careful scrutiny of every relevant fact and circumstance, to save to the States the regulation and control of all interests peculiarly local which do not infringe the national interest in maintaining untrammeled the freedom of commerce across State lines.

Another group of cases having an important bearing on the business and commercial expansion of the Nation has arisen under the fourteenth amendment, with respect to the power of the several States over foreign corporations. In Paul *v.* Virginia (8 Wall. 168) the court, speaking by Mr. Justice Field, followed the pronouncement of Chief Justice Taney in Bank of Augusta *v.* Earle (13 Pet. 519), that corporations are not citizens within the meaning of section 2, Article IV, of the Constitution, which guarantees to the citizens of each State "the privileges and immunities of citizens in the several States." From these decisions it followed that a State might exclude a foreign corporation not engaged in interstate commerce from carrying on business within its territory. In Doyle *v.* Continental Insurance Co. (94 U. S. 535) it was held that the power to exclude included the power to impose onerous conditions upon the privilege of transacting business within the State. It seemed that

under the application of this doctrine all the protection of the fourteenth amendment might be withdrawn from a foreign corporation seeking access to a State and not engaged in interstate commerce. But later cases have followed the line of argument advanced in the dissent of Mr. Justice Bradley in Doyle *v.* Continental Insurance Co., by holding that the power to exclude does not embrace the power to impose unconstitutional conditions upon the admission of a corporation to do business within a State. These decisions have given a different trend to the rule announced in Doyle *v.* Continental Insurance Co., which it was thought might seriously curtail commerce among the States.

But the great battle ground of the Constitution during the last half century has been the fourteenth amendment. Because of the nature of the rights and immunities secured by it and the character of the social and economic development of the Nation, this amendment, so far as can now be discerned, will continue to be the principal field of constitutional controversy for many years to come. The amendment was adopted in 1866. The first of the decisions handed down under it was that in the Slaughterhouse cases (16 Wall. 36). Although decided something more than 50 years ago, they may appropriately be considered here, because they are more identified with the development of constitutional law in the last than in the earlier period. They were the first of the long series of cases brought to the court under the new amendment, and marked the turn of the tide which, with the strong nationalistic spirit engendered by the Civil War, had set in against the emphasis of State rights.

The opinion of the court declared that, notwithstanding its broad language, the amendment had not transferred the security and protection of the civil rights of citizens of the States from the States to the special care of the Federal Government, but had merely created in addition to State citizenship a new citizenship of the United States. This new citizenship it had clothed with new privileges and immunities of limited character peculiar to it, and these alone were protected by that clause of the amendment which prohibited a State from abridging the privileges and immunities of citizens of the United States.

In view of the later judicial history of the amendment it is a noteworthy fact that in upholding, as the court did in that case, a statute of Louisiana granting exclusive monopolistic powers for the maintenance of stockyards and slaughterhouses, it made only passing reference to the due process and equal protection clauses of the amendment which, under later decisions, have become the chief guaranties of civil liberty of the individual as against State action.

It was within the 50-year period with which we are immediately concerned that the decisions of the court have given to the fourteenth amendment its real character as a guaranty against the encroachments of the States upon the liberty of the individual. Due process was held to mean not merely due legal procedure which, in the historic words of Webster in the Dartmouth College case, "hears before it condemns, proceeds upon inquiry, and renders judgment only after trial." But in Davidson *v.* New Orleans (96 U. S. 97), Mr. Justice Miller, speaking for the court, pointed out that the protection of the clause extended beyond injustices which might be inflicted by an arbitrary procedure to all those which might be imposed by any arbitrary exercise of the power of a State, whatever the form or procedure adopted. Continuing the famous passage from Webster's argument in the Dartmouth College case, which anticipated by a half century the comprehensive interpretation of the due-process clause, "The meaning is that every citizen shall hold his life, liberty, property, and immunities under the protection of the general duties which govern society. Everything which may pass under the form of an enactment is not, therefore, to be considered the law of the land. If this were so, acts of attainder, bills of pains and penalties, acts of confiscation, acts reversing judgments, and acts directly transferring one man's estate to another, legislative judgments, decrees, and forfeitures, in all possible forms, would be the law of the land."

It was in Davidson *v.* New Orleans also that Mr. Justice Miller pointed out the future course of judicial definition and application of the phrase "due process of law." In the absence of a more precise definition in the Constitution itself there was wisdom, he said, "in the ascertaining of the intent and application of such an important phrase of the Federal Constitution, by the gradual process of judicial inclusion and exclusion, as the cases presented for decision shall require, with the reasoning on which such decisions may be founded." Noteworthy monuments marking the boundary drawn by this process of exclusion and inclusion, as it has been plotted by the court, are the opinions of Mr. Justice Matthews and Mr. Justice Moody in Hurtado *v.* California (110 U. S. 516), and in Twining *v.* New Jersey (211 U. S. 78), holding that due process was not limited to the due process of the settled usage of the past, but might include new methods of procedure unknown to the common law, provided only that they be in harmony with the accepted underlying principles of such procedure according to the traditions of the common law; that is, that they should be orderly and provide for reasonable notice and opportunity to be heard.

It was thus determined that the constitutional requirement of due process did not bind us rigidly to any rule of the past and that the limitations of the amendment were consistent with the enlightened progress of the law.

A notable step was taken under the fourteenth amendment in Munn *v.* Illinois (94 U. S. 113), in upholding the legislative power to regulate rates of a business said to be "affected with a public use," and resulted finally in the confirmation of the now firmly established legislative power to regulate the rates of all public utilities. An important limitation on the doctrine was that announced in Smyth *v.* Ames (169 U. S. 466), that the fourteenth amendment forbids a rate which is confiscatory. The court has thus been called on to solve one of the most difficult and perplexing of economic questions, What is the minimum limit of the rate of return to which the capital invested in a public utility may be restricted before the point of confiscation is reached, and how shall that capital investment be ascertained?

In that and later cases it was pointed out that the value of invested capital could not be computed on the basis of unregulated earnings. To say what the investment value is and to separate it from considerations of an unregulated earning capacity and from the elements of business advantage and opportunity conferred upon it by the franchise of the utility itself constitute the great problem of constitutional rate making, the correct solution of which is of incalculable importance to the future economic development of the Nation.

The interests of the individual guaranteed by the fourteenth amendment are subject, within certain limitations, incapable of a complete or comprehensive definition, to the power of the State government to protect the interests of its society as a whole. For want of a better generalization, we call this power to protect the social or community interest the police power. It is the course of marking out step by step the line which separates the boundary of the immunity of the individual from this controlling interest of the State by the process of inclusion and exclusion which has given rise to the most perplexing questions and to wide differences of opinion. These questions are none the less perplexing and differences emphatic, because with the social and economic changes which take place from generation to generation that boundary line necessarily becomes a shifting one.

All those restraints on the individual which have been found necessary in order to enable modern men to get on together in civilized life or to conserve the health, morals, and stability of modern communities involve some impairment of the individual interest in liberty or property. The extent of that restraint necessarily varies in time and in space. Restraints upon those rights which in primitive and sparsely settled communities might well be regarded as arbitrary and unreasonable may be indispensable to the safety and orderly life of the modern city.

The past 50 years have wrought extensive changes in the daily life of the individual and in the character of his contacts with his fellows. From a people devoted to agriculture, living for the most part in thinly settled communities, we have developed into a great business and industrial civilization. In the course of this transformation there has been a shift of population from country to city, giving rise to a new type of social and economic problem. Mass production in industry, new methods of transportation, and transmission of intelligence have raised problems quite unknown a generation ago. Crowded traffic, congestion in cities, the necessity of restricting the use of the highways, abuses in particular classes of business, or in particular types of community which may be remedied by regulation are only examples of an infinite number of new situations which present almost daily to the court the question, Where does individual right to liberty and property end and the community interest begin?

As civilization becomes more complex and the tension of life in organized society increases, it is inevitable that such new problems should continue to arise and that with changing conditions affecting community life there should be both in point of time and in space some shifting of the line which sets off the valid exercise of the police power from the immunity of the individual. Mr. Justice Sutherland, in speaking for the court, when in Village of Euclid *v.* Ambler Realty Co. (272 U. S. 365) it recently upheld a city-zoning ordinance, said (p. 336):

"Building zone laws are of modern origin. They began in this country about 25 years ago. Until recent years urban life was comparatively simple, but with the great increase and concentration of population, problems have developed, and constantly are developing, which require, and will continue to require, additional restrictions in respect of the use and occupation of private lands in urban communities. Regulations, the wisdom, necessity, and validity of which, as applied to existing conditions, are so apparent that they are now uniformly sustained, a century ago, or even half a century ago, probably would have been rejected as arbitrary and oppressive. Such regulations are sustained, under the complex conditions of our day, for reasons analogous to those which justify traffic regulations, which, before the advent of automobiles and rapid-transit street railways, would have been condemned as fatally arbitrary and unreasonable. And in this there is no inconsistency, for while the meaning of constitutional guarantees never varies, the scope of their application must expand or contract to meet the new and different conditions which are constantly coming within the field of their operation. In a changing world it is impossible that it should be otherwise. But, although a degree of elasticity is thus imparted, not to the meaning but to the

application of constitutional principles, statutes and ordinances, which, after giving due weight to the new conditions, are found clearly not to conform to the Constitution, of course, must fall. * * *

"A regulatory zoning ordinance, which would be clearly valid as applied to great cities, might be clearly invalid as applied to rural communities. * * * Thus the question whether the power exists to forbid the erection of a building of a particular kind or for a particular use, like the question whether a particular thing is a nuisance, is to be determined, not by an abstract consideration of the building or of the thing considered apart, but by considering it in connection with the circumstances and the locality. * * * If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control."

It was to be expected that the application of a constitutional limitation so vaguely defined, to state action affecting all the varying situations which may arise in our present-day civilization, would give rise to strong differences of opinion, often resulting in decisions by a divided court. These differences usually result, not from any disagreement as to the nature of the formulas which have been developed by the court in the application of the fourteenth amendment, but to differences in the appreciation and appraisement of social and economic conditions and of the relation to them of legislative action to which those formulas are to be applied. There is general agreement that arbitrary and unreasonable legislative action is forbidden; that businesses "affected with a public use" may be regulated, and so on. Differences arise in determining whether particular legislation operates arbitrarily and unreasonably when applied to particular situations, or whether a particular business is so affected with a public use as to be the subject of regulation.

The character of these differences suggests the great importance, in applying the fourteenth amendment to cases as they arise, of the court's being fully informed as to all phases of the particular social conditions affected, the evils supposed to originate in them, and the appropriateness of the particular remedy sought to be applied. Unfortunately, in briefing questions of this character it has been the disposition of the bar very generally to be content with the elaboration of legal formulas and the citation of authorities, without a painstaking examination of the fact situation which has given rise to the constitutional question.

Lawyers who in the presentation of a negligence case would prove with meticulous care every fact surrounding the accident and injury, in this field too often go little beyond the challenged statute and the citation of authorities in supposedly analogous cases. The court is thus often left to speculate as to the nature and extent of the social problems giving rise to the legislative problem or to discover them by its own researches. Intimate acquaintance with every aspect of the conditions which have given rise to the regulatory problems is infinitely more important to the court than is the citation of authorities or the recital of bare formulas.

The extent to which a particular abuse has been the subject of legislative investigation and legislative action in other States or communities than the one immediately concerned, while not decisive of the constitutional question, is often of great importance in determining the nature of the question with which the legislature had to deal and in determining what are appropriate methods of dealing with it. Often the court has brought before it legislation of more or less local application, dealing with what are peculiarly local problems, or, again, new questions growing out of entirely new situations wtihout any adequate presentation of the legislative history or analysis or explanation of the actual situation which produced it.

It is true that the court has often said that every presumption must be indulged in favor of the constitutionality of the legislative action. As is the case with other legal formulas, this presumption may prove to be a prop which will save the plaintiff's case from collapse, but there is no safe or satisfactory reason for his discarding any available data which support presumption.

These differences of opinion as to the scope of the police power in its application to particular social problems have revived in the last 25 years the discussion of earlier days, of the power of the court to declare laws of the States and of Congress unconstitutional. While the exercise of this power has been strongly challenged as judicial usurpation, the history of the judicial function before the adoption of the Constitution, the language of the Constitution itself in Article VI, and the long course of judicial decision, leave that question no longer debatable. Hence, much of the discussion has been addressed to the question, whether the power should be limited and to suggested ways and means of limiting it.

Whatever views one may cherish as to the methods by which constitutional government may be attained in those countries which are homogeneous with respect to their local interests and local government, he can not long reflect upon our own situation and our own history without realizing how impossible it would be to preserve the rights and autonomy of our governments, both State and national, free from encroachment, each upon the other, without resort to the mediation of some impartial body.

When it comes to limiting the power of the court to declare laws unconstitutional, it is important to bear in mind that whatever limitations have been proposed upon the exercise of this power in the protection of the individual from the encroachments of government under the fifth and the fourteenth amendments, must likewise restrict the power of the court to draw the line which marks the separation of the constitutional powers of the States from each other and from the powers of the Federal Government.

The last 50 years of our constitutional history have shown a steadily increasing number of contacts between the operations of State governments and those of the National Government on the one hand and the activities of the several State governments on the other. One finds examples of the first in the exercise of the powers, both State and National, over commerce, intrastate and interstate; in the expansion of the Federal police power within the territorial limits of the States; in the field of taxation wherever either government attempts to extend its taxing power so as to affect the instrumentalities of the other or enter the exclusive field of taxation of the other. We have seen, with increasing frequency, examples of these contacts between State governments in original suits, in which one State seeks the vindication of its sovereign rights as against the other in the only court competent to adjudicate them. Wherever these contacts between the two governments occur, it is inevitable that there should result from time to time real or apparent conflicts of interest which give rise to conflicting views of the constitutional rights and powers of the governments concerned. Governmental action often taken through the agency of statutes may also be taken by the acts of officers whose powers and duties are defined by statutes. It follows that when conflicting claims of governmental right of power are brought to the Supreme Court for adjudication, they must of necessity be resolved in the great number of cases by passing on the constitutionality of some statute, State or Federal.

During the entire history of the court and chiefly during the last 50 years we have seen it at work, sitting as the impartial umpire to settle these controversies between sovereign governments, and it has settled them sometimes by holding that the State, by passing a particular statute, has exceeded its power, and sometimes by holding that Congress, in its legislation, has exceeded the powers delegated to the National Government. Without this method for the peaceable settlement of these controversies upon their merits there could be recourse only to the uncertainties of diplomatic negotiations between the governments concerned or to force.

It is a fact worthy of some comment that in the discussion of the powers of the court to declare statutes unconstitutional, we have been disposed to leave entirely out of account this indispensable function of the court as the arbiter between sovereign governments, and we have taken little thought of the effect on its exercise of that function, of the proposals which have been made for limiting its authority to declare statutes unconstitutional. Whether that power should be limited is a political question which I do not discuss, but in a gathering of lawyers it is entirely appropriate that some consideration should be given to the effect of the particular methods of limitation which have been suggested.

The devices proposed for setting limits upon the exercise of this power have been aimed at giving to statutes a weight which they would otherwise not possess in their competitive struggle with the provisions of the Constitution. They have been of two kinds. It has been suggested that a statute might be made to prevail over constitutional objections if it were passed by the legislative body twice. It has also been suggested that if a statute whose constitutionality was contested were upheld by the vote of a minority of two or three of the members of the court, it should become law despite all constitutional objections.

When any such device is applied to the function which the court exercises as the arbiter between the rival claims of governments or the separate branches of the National Government, the question at once arises, Shall it be applied equally to statutes passed by Congress and to statutes passed by State legislatures, or shall it be applied to only one, the acts of Congress? If applicable only to one, it is apparent that the sovereign State and the National Government no longer stand on a plane of equality in matters of constitutional right or immunity, but the way is opened for the gradual curtailment of the constitutional powers granted to or reserved by one through the enactment of statutes by the other, which, whenever their constitutionality is assailed, have greater weight before the court than the Constitution itself.

But if the device of the weighted statute were to be applied both to the acts of Congress and to State statutes in the field of the conflict of powers of government under our dual system, then each would be given the opportunity to extend its own constitutional power in particular fields at the expense of the other by the enactment of statutes which, before the Supreme Court, must be given a weight greater than is given to other forms of governmental actions or to the provisions of the Constitution itself.

But governments do not always exercise their sovereign powers through the enactment of statutes. Under our system they may act with equal competency through the executive or the judicial power, and such action when it is supported by the Constitution is as authoritative as if the Government spoke through legislation alone. The consequence of these proposals therefore would be to give a weight and effect to the legislative action which would not attach to other forms of

governmental action when it is asserted that both are sanctioned by the Constitution.

In a controversy between States, founded upon diverse claims of constitutional right, greater weight must needs be given to the statute of one than to the executive action of the other, merely because governmental action in one case has found expression in a statute rather than through some other equally competent agency.

The same inequality between the different types of responsible governmental action would occur with respect to the three branches of the National Government. Under such a scheme the executive action of the President or the judicial action of courts, each founded upon a claim of constitutional right, would have less weight than the action of the legislative branch. In practice the device of the weighted statutes could only operate to effect a gradual transfer of constitutional powers from the executive and judicial branches of the Government to the legislative.

These are but illustrations in somewhat elementary fashion of the truth that under our system of the distribution of constitutional powers, the power vested in one branch or agency of the Government can not be subtracted from one litigant without adding to that of the other, and that giving artificial weight to one form of governmental action wherever it comes into conflict with the other forms, or with the Constitution itself, can only result in an inevitable shifting of governmental powers as they have been distributed by the Constitution. And that redistribution of power would take place, not as the result of judicial action based on the provisions of the great document itself but by increasing the power of one at the expense of the other by resort to its own legislative action.

The progress of the court to its present position as the acknowledged arbiter between conflicting claims of governmental power is in itself an interesting chapter of constitutional history. That it has attained to that position is not due alone to the fact that its great powers were conferred upon it by a written constitution. It is due quite as much to the position which it early assumed and has always maintained of independence from every external influence, and to thoroughness and fidelity in the performance of its judicial labors.

When the court was organized it would have been easy for it to have fallen into a condition of dependence on the other great branches of the Government. That such was not its fate is due to its adherence to the tradition of independence of English and American courts and the complete realization of the fact that irrespective of whether it deals with the right of private litigants or the rights and powers of governments, a court is not truly a court unless it acts with complete independence.

If time would permit, it would be interesting to refer to the repeated decisions of the court in the past 50 years, where, as in earlier periods, its action has shown the complete detachment of its judges from all external influences. Where the court has divided the divisions have not been along party or political lines, but have rested on more fundamental differences of legal and political philosophy. And so it may be said, with the support of its entire history, that the position of the court as the controlling influence which holds each of the governments in our system and each branch of the National Government moving within its own orbit, with general acquiescence in the fairness and justice of its judgments, has been due more to its steadfast adherence to the best traditions of judicial independence than to any other cause.

But if throughout its history judicial independence has been the pole star by which the court has shaped its course, a prodigious industry and the exhaustive scrutiny of the facts and law of each case have been the motive power behind its judgment. It is only since the Civil War that its docket has become crowded with cases and that the growth of the country and expansion of all governmental activities, both State and National, have steadily increased the pressure of work upon the judges.

Very remote seem the days when the court adjourned for lack of business, and when the first Chief Justice resigned in order that he might find more active occupation as Governor of New York. The jurisdictional act of May, 1925, limiting appeals and writs of error and enlarging the discretionary jurisdiction of the court, was passed in the hope of relieving the pressure on the court and enabling it to catch up with its docket. Since its enactment steady progress has been made. For the first time in many years there has been a progressive reduction in the number of cases awaiting action by the court. In the October term of 1927, which came to its close in June, 1,049 cases were placed on the docket, of which 17 were original causes. Of this total number, 859 were disposed of during the term. Of those 365 cases were on the merits and 492 were on petition for certiorari—about 100 of which you may be surprised to learn were granted. In addition to the cases regularly appearing on the docket a large number of motions were heard and disposed of by the court as made. At the close of the term there were only 190 cases on the docket instead of 295, as at the close of 1926 term, and of these 44 were applications for certiorari, so that when the court adjourned in June there were only 126 cases on the docket awaiting the disposition of the court on their merits. There is now reasonable ground for the expectation that by the end of another term the court may be able to hear cases on their merits as soon after they are docketed as counsel are prepared to present them.

This is greatly to be desired, not that the court may be relieved of a heavy burden of labor, but that it may be able to make better disposition of its time. Time, which has hitherto been given to relatively unimportant matters, it is hoped may now be devoted to cases of far-reaching public importance. We ought not to be completely absorbed in the technique of the law. Who could listen to those inspiring addresses which we heard yesterday and for a moment suppose that law could exist and function separate and apart from science or from adequate understanding and appreciation of the significant facts of modern life which affect social right? The questions which come to us are rooted in history and in the social and economic development of the Nation. To grasp their significance our study must be extended beyond the examination of precedents and legal formulas, by reading and research in fields extralegal, which, nevertheless, have an intimate relation to the genesis of the legal rules which we pronounce. If we attain that much to the desired end, it will be through the aid of the jurisdictional act of May, 1925, and by more faithful observance by lawyers of the rules regulating arguments and the preparation of briefs, and especially the preparation of applications for certiorari, which I commend to your thoughtful consideration.

It may be of interest, and in some measure reassuring to members of the bar, if I devote a few moments to describing how this grist of legal work is ground out week by week during the term. There has been no change in the method of work in the past 50 years, and so far as I have been able to learn the court's habits of work have undergone little or no change from the beginning. I betray no secrets in describing them. In 1874 Mr. Justice Campbell, in his eulogy of Justice Curtain, and more recently former Justice Hughes, have described the daily work of the court.

Every Saturday the court sits in conference, meeting at noon, just when the call for golf is most alluring. At the sessions of the court during the week the judges have heard arguments in cases on the merits. The time of arguments, as you know, is limited so as to make impracticable decision from the bench in most cases. During the spacious hours of leisure before the court sits at 12, and after it adjourns at half past four, the judges have had opportunity to examine the records in the argued and submitted cases, and to examine the petitions and briefs upon current applications for certiorari. They have also received and examined the papers in the miscellaneous motions affecting the cases which have been docketed. On the day before the conference each judge receives a list giving the cases which will be taken up at the conference and the order in which they will be considered. This list usually includes every cause which is ready for final disposition, including the cases argued the day before the conference, and all pending motions and applications for certiorari.

At conference each case is presented for discussion by the Chief Justice, usually by a brief statement of the facts, the questions of law involved, and with such suggestions for their disposition as he may think appropriate. No cases have been assigned to any particular judge in advance of the conference. Each justice is prepared to discuss the case at length and to give his views as to the proper solution of the questions presented. In Mr. Justice Holmes's pungent phrase, each must be ready to "recite" on the case. Each judge is requested by the Chief Justice, in the order of seniority, to give his views and the conclusions which he has reached. The discussion is of the freest character and at its end, after full opportunity has been given for each member of the court to be heard and for the asking and answering of questions, the vote is taken and recorded in the reverse order of the discussion, the youngest in point of service voting first.

On the same evening, after the conclusion of the conference, each member of the court receives at his home a memorandum from the Chief Justice advising him of the assignment of cases for opinions. Opinions are written for the most part in recess, and as they are written they are printed and circulated among the justices, who make suggestions for their correction and revision. At the next succeeding conference these suggestions are brought before the full conference and accepted or rejected, as the case may be. On the following Monday the opinion is announced by the writer as the opinion of the court.

In the preparation of opinions it has been from the beginning the practice to state the case fully in the opinion. This practice gives a clarity and focus to the opinion not otherwise attainable, and has added in no small degree to the prestige and influence of the court. In recent years there has been a trend toward brevity and directness in the judicial style which without sacrifice of the essentials of the opinions has, I believe, enhanced their value as expositions of legal science.

In the first reported opinion of the court, Georgia *v.* Brailsford (2 Dall. 402, 415), a dissenting opinion was written, a practice which has been continued from time to time throughout the history of the court. In the last 50 years there have been some notable instances of the dissenting opinion ultimately becoming the prevailing opinion of the court. Notwithstanding the ideal of certainty in the law, the dissenting opinion is not without its value even though it never secures the adherence of a majority. One can not trace the path of the law without becoming

convinced that its course is very different from what it would have been if uninfluenced by the considered and powerful dissents of able judges.

An interesting and, I am inclined to believe, important feature of court's method of doing its work is that every decision, even of a motion, is a nine-judge decision. No one knows in advance of the vote and the assignment of the case by the Chief Justice who will write the opinion. No judge, more than another, is expected to advise his associates with respect to any case.

The method of dealing with motions and applications for certiorari is in no wise different. The popular impression that the work of examining these applications is divided up among the judges is not true. Every motion and every petition, with papers supporting it, is examined by each judge of the nine and he comes to conference with a memorandum, often written out in his own hand, embodying the results of his investigation of each application.

Petitions for certiorari are granted on the affirmative vote of four of the nine judges. This part of the court's work is very laborious. At the opening of the last term there were awaiting disposition 228 applications for certiorari, which had accumulated during the summer vacation. At the end of the first seven weeks of the term these applications had been taken up and disposed of in addition to the current work of hearing and disposing of argued and submitted cases and the preparation of opinion.

Of course, so heavy a burden of work could not have been disposed of in so brief a time if all the judges had not spent some of the summer in examining the accumulations of applications for certiorari. Nor would such a continuous burden of work as I have described be supportable were it not for the very great skill of the more experienced judges in reading records and getting quickly to the essential points in each case, nor, indeed, if it were not for the extraordinary and abiding interest which attends it.

He would indeed be a rash prophet who would venture to predict the course of judicial decision in the next 50 years. Could we have a vision of the future social and economic development of America, it would perhaps be possible to indicate with reasonable certainty the line along which it must proceed. But that vision is denied to us except dimly. From the history of the court we know that firm adherence to its established traditions of judicial independence and of performance of judicial duty with painstaking thoroughness and fidelity are the strongest assurance that it will meet and sustain the responsibility of the future. Often unjustly and unreasoningly attacked, those attacks have left no scar. The faithful performance of the great work of the court day by day and year by year has won to it deserved confidence in its disinterestedness and stability as an institution, and brought it to an undisputable triump over hasty criticism and the dissatisfaction of the moment. Those who bear its responsibilities now and in the future will do well to ponder this significant fact and to recall as well that in the course of its long history the only wounds from which it has suffered have been those which, in the words of former Justice Hughes, were "self-inflicted."

SENATOR FROM PENNSYLVANIA

Mr. REED of Missouri. Mr. President, I very much desire to enlist the attention of the Senate, because my experience has been that if we can once get the attention of Senators a great deal of time is saved; otherwise questions are asked with reference to matters that have once been stated.

I am calling the attention of the Senate to the report of the committee on what is known commonly as the Vare case. I think I can best present the subject by briefly referring to the proceedings of the Senate and the various steps taken by the committee.

On May 19, 1926, the Senate adopted a resolution creating the special committee and directing it to investigate the expenditures in the senatorial primaries and general election of that year. The committee proceeded with its business, and hearings were held at various dates, beginning on July 3 and extending to July 26, 1926. All of the candidates for the Senate in the Commonwealth of Pennsylvania were notified of the proceedings of the committee, and appeared and testified, and had the privilege of representation by counsel. The fullest opportunity to be heard touching all matters connected with the primary election was afforded to all of the parties who were concerned. Mr. VARE appeared in person, and testified at length, as appears on pages 492 to 526 of volume 1 of the hearings. He was represented at that time by an attorney, Mr. Harry A. Mackey.

On December 22, 1926, the committee reported to the Senate its findings of fact touching the Pennsylvania primary.

On January 10, 1927, there was filed in the Senate a certificate of election of Mr. VARE, signed by Governor Pinchot. On the same day the Senate adopted Senate Resolution No. 324 directing the committee to take possession of the records of the general election held on the 2d day of November, 1926.

Election records were promptly secured by the committee from Allegheny County and Philadelphia, the documents being turned over without any protest from those two counties. There was, however, resistance made in other counties, which resulted in certain court proceedings being had in order to secure or attempt to secure the records of the election.

These proceedings carried us along until late in the session of 1927. It will be recalled that an attempt was made by the committee to have adopted a resolution formally extending its powers so that during the recess no challenge would be made of its authority. At the time it was made necessary, largely by the resistance offered to the securing of the election returns and paraphernalia without which the committee could not proceed as it intended to proceed with the taking of oral testimony. When that resolution was offered, resistance was made in the Senate, and the debate was carried on until the Senate was obliged to adjourn under the law. The result was what had been anticipated namely, that, while the committee had no doubt of its legal authority to proceed, it was perfectly manifest that it would be resisted at every step and that it would not be able to make any real headway.

I think I may say in passing that the circumstances show that the resistance in Pennsylvania was made by Mr. VARE's friends and that the resistance in the Senate to the extension of the power of the committee was also made in his behalf and, in my opinion, fully at his instance.

That brought us to an impasse, and during the summer practically nothing could be done.

When the Congress reassembled in December, 1927, within four days after reassembling, the Senate adopted a resolution to which I challenge particular attention, especially to the last paragraph or two, because it has much to do with the action the Senate may see fit to take at this time. That resolution read:

Resolved, That the claim of the said WILLIAM S. VARE to a seat in the United States Senate is hereby referred to the said special committee of the Senate, with instructions to grant such further hearing to the said WILLIAM S. VARE and to take such further evidence on its own motion as shall be proper in the premises, and to report to the Senate within 60 days if practicable; and that until the coming in of the report of said committee and until the final action of the Senate thereon the said WILLIAM S. VARE be, and he is hereby, denied a seat in the United States Senate: *Provided*, That the said WILLIAM S. VARE shall be accorded the privileges of the floor of the Senate for the purpose of being heard touching his right to receive the oath of office and to membership in the Senate.

On the same day another resolution was submitted, which was agreed to on the 13th of December. That resolution declared, in substance, that resolutions creating the committee, including Senate Resolution 324 and subsequent resolutions conferring authority upon the committee, had continued in full force and effect since the respective dates of their adoption by the Senate and do now as then express the will of the body.

The resolution further recited:

The committee shall continue to execute the directions of the said several resolutions relating to the said committee and until the Senate accepts or rejects the final report of said committee or otherwise orders.

As a result of these resolutions the proceedings of the committee, of which the Senate had notice, and of agreements which were made between the parties, the election records were finally delivered to the committee on the 20th day of February, 1928. The committee thereupon proceeded to an examination of the records. At the same time the Committee on Privileges and Elections hearing the contest between Mr. Wilson and Mr. VARE proceeded with its work.

The representatives of both committees and of Mr. Wilson and of Mr. VARE were constantly present and given all the privileges usually accorded, and were allowed to examine all of the election records and documents.

Mr. President, one of the resolutions that was adopted was known as the Norris resolution. It was adopted on the 8th day of January, 1927, and to that resolution I challenge the attention of the Senators present. It read:

Whereas on the 10th day of January, 1927, there was filed in the Senate an official communication from the then Governor of Pennsylvania, made and delivered to the Senate in pursuance of law, the following certificate:

COMMONWEALTH OF PENNSYLVANIA,
GOVERNOR'S OFFICE,
Harrisburg, January 8, 1927.

The PRESIDENT OF THE SENATE OF THE UNITED STATES,
Washington, D. C.

SIR: I have the honor to transmit herewith the returns of the election of United States Senator, held on November 2, 1926, as the law of this Commonwealth directs.

I have the honor also to inform you that I have to-day signed and by registered mail delivered to Hon. WILLIAM S. VARE a certificate which is as follows:

"To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

"This is to certify that on the face of the returns filed, in the office of the secretary of the Commonwealth of the election held on the 2d day of November, 1926, WILLIAM S. VARE appears to have been chosen by the qualified electors of the State of Pennsylvania a Senator from said State to represent said State in the Senate of the United States for the term of six years beginning on the 4th day of March, 1927."

The form of words customarily used for such certificates by the governors of this Commonwealth and the form recommended by the Senate of the United States both include certification that the candidate in question has been "duly chosen by the qualified electors" of the Commonwealth.

I can not so certify, because I do not believe that Mr. VARE has been duly chosen. On the contrary, I am convinced, and have repeatedly declared, that his nomination was partly bought and partly stolen, and that frauds committed in his interest have tainted both the primary and the general election. But even if there had been no fraud in the election, a man who was not honestly nominated can not be honestly entitled to a seat.

The stealing of votes for Mr. VARE, and the amount and the sources of the money spent in his behalf, make it clear to me that the election returns do not, in fact, correctly represent the will of the sovereign voters of Pennsylvania.

Therefore I have so worded the certificate required by law that I can sign it without distorting the truth.

I have the honor to be, sir,

Very respectfully yours,

GIFFORD PINCHOT, *Governor.*

The resolution then proceeded:

Now therefore be it

Resolved, That the expenditure of such a large sum of money to secure the nomination of the said WILLIAM S. VARE as a candidate for the United States Senate prima facie is contrary to sound public policy, harmful to the dignity and honor of the Senate, dangerous to the perpetuity of a free government, and, together with the charges of corruption and fraud made in the report of said committee, and substantiated by the evidence taken by said committee, and the charges of corruption and fraud officially made by the Governor of Pennsylvania, prima facie taints with fraud and corruption the credentials of the said WILLIAM S. VARE for a seat in the United States Senate; and be it further

Resolved, That the claim of the said WILLIAM S. VARE to a seat in the United States Senate is hereby referred to the said special committee of the Senate, with instructions to grant such further hearing to the said WILLIAM S. VARE and to take such further evidence on its own motion as shall be proper in the premises, and to report to the Senate within 60 days if practicable; and that until the coming in of the report of said committee and until the final action of the Senate thereon the said WILLIAM S. VARE be, and he is hereby, denied a seat in the United States Senate: *Provided*, That the said WILLIAM S. VARE shall be accorded the privileges of the floor of the Senate for the purpose of being heard touching his right to receive the oath of office and to membership in the Senate.

Mr. President, the committee promptly notified Mr. VARE that it would proceed with this business. The election papers were received, finally, about the 20th day of February, 1928. The committee appointed Mr. Clapp, a prominent lawyer of Philadelphia, to represent it. He organized a corps of assistants. All of them were sworn faithfully to examine the election records and truthfully to report their findings. At the same time Mr. VARE was notified and was represented by his attorney and by persons selected for the purpose by him; and it is fair to say that Mr. VARE's representatives saw all of the papers and had an opportunity to know what papers were being examined by the representatives of the committee.

One witness only was produced to testify orally—Mr. Charles Edwin Fox. Mr. Fox testified in the presence of Mr. VARE and Mr. VARE's attorney, and was cross-examined at length by these attorneys. With the exception of the compilation of the reports of those who had been examining the documents, the committee regarded the testimony at that time closed, unless Mr. VARE or his counsel desired to be further heard.

Mr. Fox's testimony was to the general effect that an organization existed, and had existed for years, in Philadelphia; that it had been engaged in almost every conceivable form of fraud and illegal practices and irregularities; that this organization for a number of years had been under the control of WILLIAM S. VARE; that the organization was largely self-perpetuating, and was the same organization which conducted the 1926 election.

At the conclusion of Mr. Fox's testimony this statement was made by the chairman of the committee:

That ends this particular hearing. I do not know whether the committee will take any other testimony or not. We may, after consideration. I have not talked with the committee. That ends this particular hearing, unless Mr. VARE or Mr. Wilson has something he desires to present.

Mr. VARE. No, sir; nothing.

The committee then regarded the testimony as closed except for the report of the committee. At least, that was the impression the chairman had, and I think it was the general impression of the committee.

That was on May 8, 1928. However, after consideration the committee concluded to call Mr. VARE formally before it to ascertain specifically whether he had anything to offer, and on May 16 notified him, as follows:

The special committee appointed pursuant to Senate Resolution 195 will be prepared at 10 o'clock, Saturday morning, May 19, 1928, to consider any matter you may desire to submit it.

Will you please advise us at the earliest possible moment whether you will desire to appear or be represented before the committee?

In reply to that, the committee received a letter from Mr. VARE, as follows:

I am unable to come to Washington to-morrow. My Philadelphia doctor advised me to come to Atlantic City, and I was compelled to have Atlantic City doctor attend me to-day. I welcome this, the first opportunity I have had to appear before the Reed committee to explain my primary campaign.

I do not wish to say anything harsh; but he had been before the committee, he had testified at length, and he had had abundance of opportunity.

The letter continues:

I regret this attack of acute indigestion prevents my attendance. I am hopeful that the committee will withhold judgment and fix a date after I have recovered from illness that I might appear before the committee and give full and complete information.

The committee assembled, and Mr. Francis S. Brown, an attorney representing Mr. VARE, appeared and said:

I do not know what testimony would be required here in this investigation. As I understand, a statement has been submitted to you—to this committee—covering the expenditures and how the money was expended, and all that. I do not know what else he can add to it.

Counsel further stated that he had been consulted only very recently regarding the controversy in question. Thereupon the committee decided that it would give further time to Mr. VARE in order to allow him to recover from this attack of acute indigestion, and the following statement was made:

The committee recognizes the fact that Mr. VARE is ill and unable to be here, and that we ought to grant any reasonable indulgence, but we desire to close this matter up. I will ask you to communicate with Mr. VARE and find the earliest time that he can be here, and advise me, as chairman of the committee, just as soon as you can; and the committee will stand in recess subject to the call of the chairman. We will give you notice in advance of a meeting.

The committee expected that notice; and, while the members of the committee had gone home, we were prepared by subcommittees to proceed with the testimony.

The committee received no communication whatever from Mr. VARE until November 28, 1928, when the chairman received the following letter from Mr. VARE:

ATLANTIC CITY, N. J., *November 28, 1928.*

Hon. JAMES A. REED,

Chairman Special Committee on Campaign Expenditures,

United States Senate, Washington, D. C.

DEAR SENATOR REED: Shortly before the adjournment of Congress you will recall I was stricken by sickness, and your committee graciously excused my appearance before you at that time. After partial recovery, but against the advice of my physician, I went to Kansas City convention, as I had been elected a delegate, and I am now paying the price. The trip, instead of helping me, as I had hoped, injuriously affected my health until, on August 1, I suffered a stroke, paralyzing my left side, leg, and arm.

Of course, I do not need to go into details as to the result of a stroke. Suffice it to say that I am now slowly recovering, but I am still confined to my summer home at Atlantic City. My physicians advise me that I must have absolute rest and quiet if I am to make further progress toward recovery. In fact, they have warned me that any undue exertion at this time, physical or mental, might be attended with disastrous results.

I had hoped, upon the reassembling of Congress, to be able to comply with any request of your committee to appear before you, but that is, in my present condition, physically impossible.

I am grateful for your consideration and, with assurance of my regards, I remain,

Very truly yours,

WM. S. VARE.

Accompanying that, or immediately succeeding that letter, was a certificate from the physicians of Mr. VARE describing his condition. To epitomize this, and not to weary the few Senators who seem still to be interested in this case, the substance of the doctors' certificate was that Mr. VARE was in a very serious condition, that he could not appear and testify; but it further appeared, in part in the letter, and in part in subsequent testimony, that within a very few days after Mr. VARE had obtained his continuance he had attended the Republican convention in Kansas City, and from that time until the 1st day of August had been capable of going about the city of Philadelphia and attending to his usual affairs. During all that interval he failed to notify the committee that he could appear, although he had been expressly requested to give the earliest possible notice. Accordingly, during all this time he allowed to elapse he could have appeared to present his further evidence, if he had any to offer.

When the committee assembled, and this application for further continuance was made, the committee, after consultation, concluded that it ought to proceed with this business, and so notified Mr. VARE and his counsel. Thereupon a request was made that they be furnished with the findings of the representatives of the committee. That was on January 24, 1929, and the substance of the findings of the representatives of the committee was furnished, and, in addition thereto, the work sheets which had been used to compile the various data were submitted to the counsel for Mr. VARE.

On January 24, after all that had been done, Mr. VARE's counsel appeared and made no further application for continuance. They stated that they were ready to proceed, but one of them did state that Mr. VARE was still in ill health, that he could not appear, and that no assurance could be given as to when he could appear. Indeed, the intimation was rather broad that the time would be very indefinite, to state it in the mildest possible terms.

One of the physicians of Mr. VARE was put upon the stand, and the substance of his testimony was and is that Mr. VARE suffered a paralytic stroke, that he was confined to his bed practically all of the time, that he could not talk with his lawyers with reference to this case, that any sort of excitement or agitation of any kind was likely to produce very serious results, and no assurance could be given as to when he would recover, if, indeed, he would ever recover.

After all this delay the counsel for Mr. VARE addressed the committee and presented an argument which he afterwards reduced to the form of a brief, in which he attacked certain findings of the committee and in general made an argument in favor of Mr. VARE. That brief is printed and submitted here for what persuasive power it may have, and it was replied to in a brief of Mr. Clapp, which is also appended to the report.

I will say that it seemed a very strange thing to the committee that it should have been asked to continue this case for months and then, when it came to the final hearing, the only evidence produced was the affidavits of about 37 people out of some 2,018 whose signatures to the registration lists were reported to us by experts to have been written by other than the ostensible signers. These 37 people testified they had signed their own names. That was all the evidence introduced after all this delay, and in addition to it was an argument of counsel—sometimes I thought drawing correct conclusions and sometimes very incorrect conclusions—but all of that was analyzed by Mr. Clapp.

Mr. President, that creates this sort of situation. The Senate, by the Norris resolution, commanded the committee to give Mr. VARE a hearing. The committee endeavored to give him that hearing, and the committee is unanimous in its opinion that if he had availed himself of his opportunities he had abundant time to appear and present his case. So the committee has brought in its final report. I think I ought to say that I believe the Senator from Utah is still of the opinion—I think I may say more in charity and more with the purpose of resolving every possible doubt in favor of Mr. VARE—that perhaps the committee should be continued. He has stated his views in a separate paper.

Mr. KING. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Missouri yield to the Senator from Utah?

Mr. REED of Missouri. I yield.

Mr. KING. I regret that I am not in entire accord with my brethren who have had the consideration of this important case. I agree with the statement just made by the Senator from Missouri that opportunity was afforded Mr. VARE to present his case. That, of course, was anterior to the serious illness from which he is now suffering. I think the evidence is conclusive that since the paralytic stroke of August 1 of last year Mr. VARE has been utterly incapacitated from a proper consultation with his counsel or undertaking any activity requiring physical or mental effort.

One other observation—and I hope the Senator will pardon me. I regard some of the most important testimony in this record as that which was presented to the committee in detail, perhaps after Mr. VARE was ill, as to which he, Mr. VARE, has not had full opportunity, in my opinion, to answer the same. When the Senator from Missouri concludes I may amplify these brief remarks.

Mr. REED of Missouri. I think that is in accord with what I was trying to say. I was not saying it quite so lucidly.

It is important to remember that the only testimony introduced after Mr. VARE's sickness was the conclusions of the examiners of the documents, and that examination was conducted also on behalf of Mr. VARE by his own representatives, as well as by the representatives of the committee, and while Mr. VARE's examiners did not submit their findings or their work sheets to our examiners, we did submit to Mr. VARE's counsel, and any other persons he desired to call in, the work sheets of the committee's examiners.

My own view—and I do not care to enter into any discussion of it—is that that was a matter for the examination of experts and of counsel, and that Mr. VARE had an abundance of both, and that he could not have added, under the circumstances, in the slightest degree to the mere exposition of the contents of a written instrument which was before the committee.

Assuming to be correct the conclusions of the majority of the committee—that is, of all of the committee except the Senator from Utah [Mr. KING]—to the effect that there is nothing further for the committee to do, that it has fully afforded Mr. VARE the opportunity of a hearing, and also that there is no showing or pretense of a showing that he will ever at any time be able to appear before the committee, the committee regards its labors as concluded. It has done all that it can do, all that in reason it ought to be asked to do, and all, I think, it could ever do if it were continued in existence for years.

First, I do not think there is anything to submit; second, I think everything has been submitted; third, I think if there were something to submit which Mr. VARE knew of personally, he is as well prepared to furnish it now as he ever will be, notwithstanding his present physical condition.

Mr. President, I am going to ask for a quorum myself now. This is not a personal matter to me. I want the Senate to hear it.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

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

Mr. REED of Missouri. Mr. President, I beg Senators to attend to this important question for a moment. I assure them that I am not asking for a personal hearing. If I wanted that I would know how to get it. I would just start some sort of a row here. I appreciate the fact that many committees are meeting, but this is an important matter that must be disposed of in some way by the Senate. I think at this session some action should be taken.

I repeat that in the opinion of the committee Mr. VARE has been given every opportunity to be heard and that there is no evidence whatever that he will ever be in any better condition than he is now. We tried to elicit from his physicians a direct

statement on that point, but were unable to do so. Accordingly, the committee regards its labor as concluded. Now the question comes, what is the Senate going to do?

The majority of the committee accordingly reported:

From the foregoing facts and conclusions, including those previously reported, it is the opinion of the committee that WILLIAM S. VARE is not entitled to a seat in the United States Senate.

The committee, however, directs attention to the terms of Senate Resolution No. 2, of the Seventieth Congress, agreed to on December 9, 1927, and respectfully submits that, in view of the present physical and mental condition of the said WILLIAM S. VARE, it is for the Senate to determine what action is proper in the premises.

That is the report of the majority.

The Senator from Utah [Mr. KING] concurs in this language:

The records show that in August, 1928, Mr. VARE suffered a paralytic stroke, since which time he has been unable to appear before the committee of the Senate. The record also shows that he is still in a serious physical condition as a result of such stroke. It also appears that he desires to come before the committee and testify and speak in his own behalf and perhaps offer additional testimony.

The record, as it now stands, would warrant action by the committee adverse to the right of Mr. VARE, after being sworn in, to retain his seat in the Senate; but in view of his serious physical condition and his desire to be heard by the committee and perhaps offer further testimony, I am unwilling to close the case and submit a final report to the Senate.

But there is the concurrence of all members of the committee that, as the record stands now, Mr. VARE is not entitled to his seat.

Mr. KING. Mr. President, will the Senator permit an interruption?

Mr. REED of Missouri. I yield.

Mr. KING. I take the position that Mr. VARE is entitled to be sworn in, regardless of the final action of the Senate.

Mr. REED of Missouri. That has been the Senator's position from the first; but I have just read his language. The Senator thinks he is entitled to be sworn in, but on the record as it now stands that he ought to be ousted immediately after being sworn in.

Mr. KING. I take the position that the Senate would be warranted in denying him his seat.

Mr. REED of Missouri. That is the same thing in different language.

Mr. President, the Senate has solemnly declared that Mr. VARE is not entitled to his seat unless upon a further hearing it should appear that he was entitled to the seat. That hearing has been had, as far as this committee could give it, and I think as far as any committee could ever give it. The question now is whether the Senate desires to proceed and adjudicate this case or whether the Senate is inclined to take the view that it wants to grant Mr. VARE further time to appear before the Senate. The committee has brought in no resolution. We submit to the Senate our findings, the result of our long and arduous labors.

Now, I want to say a word for myself; and for what I shall say no one is responsible except myself. It is my solemn judgment that Mr. VARE has utterly failed to meet the charges or to meet the evidence which has been adduced against him. It is my solemn judgment that an unspeakable condition of affairs existed in the primaries and election in the State of Pennsylvania. It is my solemn judgment that Mr. VARE was guilty of conduct which warrants a refusal of his seat. It is my solemn judgment also, however afflicted Mr. VARE may be, under the conditions which exist, having regard to the fact that Pennsylvania is entitled to have full representation and that the country is entitled to full representation in the Senate, if we are to follow the strict line of duty, we ought to proceed with this business.

But, Mr. President, there is a human side to the case. If Mr. VARE were well and on his feet, if he were able to come here and defend himself, I would insist upon the disposition of the case, even though it was to the exclusion of all other business during the session. But I am, to state it frankly, torn between two conflicting ideas. One is the cold, plain line of duty as I see it. The other is sympathy for an afflicted man and a feeling that I can not insist upon at least leading in a fight against a man who is now helpless. It is a difficult proposition to face. In my early youth, when I encountered no danger by conflict, I had a great many fights, but I never was able to hit a boy when he was down, and I just can not do it now. But the question is before the Senate. If a resolution is brought in to render final judgment in this case, I shall vote for it because it is my duty; but if it is not brought in, I shall not insist upon it and will let another Senate at another time finally dispose of the case.

Mr. REED of Pennsylvania. Mr. President, when the Senator from Missouri [Mr. REED] shall have left the Senate, the Senate will be the poorer for his going. We all know his ability as a lawyer. Whether we agree with him or not—and it has been my misfortune seldom to have agreed with him—I have admired the great talent that has characterized his work. I know, Mr. President, that his heart is now serving him as well as his head, as it has always served him; and that we will remember the fairness of his remarks to-day as we will remember also the great service that he has rendered his country. His decision is right, Mr. President. Mr. VARE, whether he be right or wrong in this controversy, is at this moment helplessly paralyzed; and whether we may approve of him or disapprove of him, whether we may approve his conduct or disapprove it, whether we may intend to vote for him or against him when his case comes up for decision, I do not believe that the country would give its approval to our action if, having promised Mr. VARE the rights of this floor to speak in his own behalf prior to our judgment on his case, we now in the moment of his paralytic stroke and his affliction should withdraw from him the right that we then gave him and should pass judgment on him in his absence without having heard whatever he may have to say on the merits of his case. Mr. President, I myself do not care to enter into an analysis of the report or to discuss the facts of the case until the time comes when Mr. VARE can be here to speak for himself. Then I myself may have something to say about the case.

Mr. ROBINSON of Arkansas. Mr. President, on behalf of the Senator from Nebraska [Mr. NORRIS], who is detained from the Senate on the business of the Senate, it is my intention to submit a resolution dealing with the report just presented by the Senator from Missouri [Mr. REED] for the select committee of the Senate and also foreclosing the question as to the right of Mr. VARE to a seat in the Senate. The question has been pending for a long time. There is no Senator who would desire to preclude one claiming a seat in this body from the opportunity for a full hearing. The right of hearing inheres in our system of jurisprudence, and it is particularly appropriate that that right shall be preserved, even in the face of what appears to be overwhelming evidence justifying a conclusion touching the matter in controversy.

In view of the statement made by the Senator from Missouri and that just submitted by the Senator from Pennsylvania, fully realizing the importance of the question to the public, I have no disposition to press a conclusion touching the resolution which I am about to submit. Nevertheless it is a question which the Senate should consider.

We all sympathize with Mr. VARE in the misfortune that has befallen him, in the illness from which he is suffering, and certainly no one who is possessed of the usual sympathies which characterize men in the positions which we occupy would desire to prevent him from having the fullest opportunity to assert a right that has been challenged and a right of fundamental importance in our system of government. I shall present the resolution to which I have referred, have it read, and ask that it lie over under the rule.

The PRESIDING OFFICER. The resolution submitted by the Senator from Arkansas for the Senator from Nebraska [Mr. NORRIS] will be read.

The Chief Clerk read the resolution (S. Res. 339), as follows:

Whereas on the 17th day of May, 1926, the Senate passed a resolution creating a special committee to investigate and determine the improper use of money to promote the nomination or election of persons to the United States Senate and the employment of certain other corrupt and unlawful means to secure such nomination or election; and

Whereas said committee, in the discharge of its duties, notified WILLIAM S. VARE, of Pennsylvania, then a candidate for the United States Senate from that State, of its proceedings, and the said WILLIAM S. VARE appeared in person and by attorney before said committee while it was engaged in making such investigation; and

Whereas the said committee, in its report to the Senate (Rept. 1197, pt. 2, 69th Cong.), found that the evidence, without substantial dispute, showed that at the primary election at which the said WILLIAM S. VARE was alleged to have been nominated as a candidate for the United States Senate there were numerous and various instances of fraud and corruption in behalf of the candidacy of the said WILLIAM S. VARE; that there was spent in behalf of the said WILLIAM S. VARE in said primary election by the said WILLIAM S. VARE and his friends a sum of money exceeding $785,000; and that the said WILLIAM S. VARE had in no manner controverted the truth of the foregoing facts, although full and complete opportunity had been given him not only to present evidence but arguments in his behalf; and

Whereas in the consideration of said report, on the 9th day of December, 1927, the Senate, by solemn declaration declared "that the expenditure of such a large sum of money to secure the nomination of the said WILLIAM S. VARE as a candidate for the United States Senate prima facie is contrary to sound public policy, harmful to the dignity and honor of the Senate, dangerous to the perpetuity of a free government, and, together with the charges of corruption and fraud made in the report of said committee, and substantiated by the evidence taken by said committee, prima facie taints with fraud and corruption the credentials of the said WILLIAM S. VARE for a seat in the United States Senate"; and thereupon the Senate referred the claim of the said WILLIAM S. VARE to a seat in the United States Senate to the said committee, with instructions to grant such further hearing to the said WILLIAM S. VARE and to take such further evidence on its own motion as it deemed proper in the premises; and

Whereas the said committee, having complied with the direction of the Senate, has made a further report to the Senate (Rept. 1858, 70th Cong., 2d sess.) of its doings in the premises. From said report and the evidence taken by the committee it appears that the evidence as to fraud and corruption in said primary election has not been refuted, and the same stands as it did when the committee filed its partial report to the Senate (Rept. 1197, 69th Cong.); and

Whereas in addition to the investigation made by the said committee concerning the said primary election, said committee has also investigated the alleged election of the said WILLIAM S. VARE to the United States Senate at the general election held November 2, 1926, and in such investigation has discovered various and numerous instances of fraud and corruption occurring at said general election in behalf of the candidacy of the said WILLIAM S. VARE for a seat in the United States Senate; and

Whereas the said committee, from the foregoing facts and conclusions, including those previously reported in regard to said primary election, has reported to the Senate (Rept. 1858, 70th Cong., 2d sess.) that the said WILLIAM S. VARE is not entitled to a seat in the United States Senate: Therefore be it

Resolved—

(1) That the said report (S. Rept. 1858, 70th Cong., 2d sess.) be, and the same is hereby, approved and adopted.

(2) That the said WILLIAM S. VARE be, and he is hereby, denied a seat in the United States Senate; and

(3) That the said committee, in accordance with its suggestion in said report, be continued in office during the interim between the final adjournment of the Seventieth Congress and until the convening of the first session of the Seventy-first Congress, and thereafter during the life of said Congress, unless sooner discharged by the Senate; and that Senate Resolutions 195, 227, 258, and 324 of the Sixty-ninth Congress and Senate Resolutions 2 and 10 of the Seventieth Congress be, and the same are hereby, continued in full force and effect to the same extent as though herein fully set forth until said committee is finally discharged.

The PRESIDING OFFICER. The resolution will lie over, under the rule.

Mr. KING. Mr. President, I should like to ask the Senator from Arkansas a question. The resolution, if I understand it, would if it should be adopted deny Mr. VARE a seat in the Senate. Is it the view of the Senator that the committee, unless it is continued until another Congress, dies with the expiration of the present Congress? If that should be the view of the Senate, then if this resolution is not acted upon before March 4 it will be necessary to have a resolution offered that will continue the committee until final report shall have been submitted by it. May I add that in my opinion the committee needs no further authority from Congress to continue its existence. It now has the authority to function until its labors are concluded and its final report has been presented to the Senate.

Mr. ROBINSON of Arkansas. Of course, the Senator has raised a very ancient question and a somewhat difficult one. I think it is covered by a resolution presented to the Senate by the Senator from Missouri [Mr. REED], and that the authority of the committee will continue until the committee shall have been discharged by the Senate. As on a former occasion, however, to save collateral controversies and disputes as to the authority of the committee, a provision was incorporated in the resolution which I have submitted on behalf of the Senator from Nebraska continuing it.

The resolution which the Senate adopted and which was presented by the Senator from Missouri contains this provision:

And that the said special committee appointed pursuant to Senate Resolution 195 of the Sixty-ninth Congress, first session, shall continue to execute the directions of the said several resolutions relating to the said committee until the Senate accepts or rejects the final report of the said special committee or otherwise orders.

Mr. KING. As I understand that was adopted.

Mr. ROBINSON of Arkansas. That resolution was agreed to and is the law under which the special committee is now proceeding. So, I myself do not think there is any occasion for the adoption of that clause in the resolution which expressly continues the committee; at least I do not now see any occasion for it.

Mr. KING. Mr. President, I think the Senator is right. The only reason I rose to propound the inquiry was because of the recitation in the resolution just submitted that the committee should be continued.

Mr. ROBINSON of Arkansas. It is fair to state that the provision which I have just read was incorporated in the resolution for the express purpose of making clear and relieving from all doubt any question as to the right of the committee to continue its action and study of the subject until final disposition.

Mr. DILL. Mr. President, will the Senator yield to me for a question?

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from Washington?

Mr. KING. Yes.

Mr. DILL. What will be the status of the report of the committee that has been made and is now on file if not acted upon at this Congress? Will that report stand, or will a new report be made?

Mr. ROBINSON of Arkansas. While this resolution calls for the approval and adoption of the report, as the Senator well knows, no action on the report as such is required under the usual procedure of the Senate.

Mr. DILL. But the question in my mind was this: If no action is taken on the resolution of the Senator from Nebraska, and the Congress ends, as it will, on the 4th of March, when we meet in the next session of Congress will the committee be under the duty of filing a new report, or will this report stand?

Mr. ROBINSON of Arkansas. Oh, no; I think it will not have to file a new report. My mind is clear on that.

Mr. DILL. The report does not die?

Mr. ROBINSON of Arkansas. No.

Mr. KING. Mr. President, if the Senator is through, I should like to ask the Senator from Pennsylvania a question.

Mr. REED of Pennsylvania. I shall be glad to answer it.

Mr. KING. In view of the position of the Senator from Pennsylvania at a previous session of Congress, with respect to the power of the committee and its authority to continue after the adjournment of that session, I should like to ask the Senator if he now contends that the Reed committee dies with the death of this Congress on the 4th of March?

Mr. REED of Pennsylvania. No, Mr. President; I do not. In the former case I tried to state my position as being this: That the Senate undoubtedly has power to create a committee and make it continuing from one Congress to another. I took the position then that the Senate had not done so; but in the resolution which has just been read by the Senator from Arkansas I feel very sure that the Senate has done so, and that this special committee does continue in power over the coming change in the Congress.

Mr. KING. The Senator knows that there was a sharp conflict in regard to the matter to which he has just referred. The position was taken by a number of Senators, among them the Senator from Idaho [Mr. BORAH], the Senator from Nebraska [Mr. NORRIS], the Senator from West Virginia [Mr. GOFF], and the members of the committee, that the committee had full authority to continue the investigation ordered by the Senate, notwithstanding the adjournment of Congress, and that no further authority was required in order that they might continue their work until it was finished and a final report submitted. I think, with all due respect to my able friend from Pennsylvania, that his position and that of those who supported that view, including the present occupant of the chair [Mr. FESS in the chair], was not the correct one.

Mr. REED of Pennsylvania. Be that as it may, Mr. President, I think we are all agreed that there can be no question about the continuance of the committee now; and in further answer to the Senator from Washington——

Mr. ROBINSON of Arkansas. Neither can there be any question about the continuance of the issue underlying the committee's report.

Mr. REED of Pennsylvania. No; that is just what I was going to answer.

Mr. ROBINSON of Arkansas. Before Mr. VARE can take his seat there must be affirmative action by the Senate entitling him to do so.

Mr. REED of Pennsylvania. I think there is no question about that.

Mr. ROBINSON of Arkansas. And before he can be finally rejected a resolution must be adopted similar to that which has been proposed.

Mr. REED of Pennsylvania. But the report of the committee is advisory to the next Senate as well as it is to this one, and

its conclusion could be adopted by the Senate of the Seventy-first Congress just as well as by the present Senate, or it could be adopted by the One hundred and seventieth Congress, for that matter. It lies in our files as advice to the Senate, and continues to have that power.

Mr. President, unless there is something further that is desired, I have another matter that I want to bring up.

Mr. REED of Missouri. In connection with this?

Mr. REED of Pennsylvania. No.

Mr. REED of Missouri. I should like to conclude this matter.

Mr. President, it seems to me quite manifest that in all probability the Senate will not take action on this case at this session; but, whether they do or not, I think it still remains a matter that compels the continuance of the committee. There is pending a case which was brought by the committee on behalf of the Senate, known as the Cunningham case. It is before the United States circuit court of appeals. The Senate and the committee are represented by former Attorney General Wickersham.

Mr. KING. Mr. President, will the Senator suffer an interruption?

Mr. REED of Missouri. Yes.

Mr. KING. The matter is now being carried to the Supreme Court of the United States.

Mr. REED of Missouri. Very well. When that case is decided it will be necessary for the committee to attend to the business of settling the expenses that may be incident to the appeal. For that reason it is necessary to have the committee continue in existence. That business can not possibly be wound up while I am a Member of the Senate; and, accordingly, Mr. President, I move that I be discharged from further service in connection with the committee, and that the senior Senator from Arkansas [Mr. ROBINSON] be substituted in my stead.

Mr. KING. Mr. President, will the Senator permit an interruption?

Mr. REED of Missouri. Yes.

Mr. KING. I think that course should not be determined upon so long as the question is not decided as to whether there will be a vote upon this resolution. If it is understood now that no further action upon the report is to be taken during this session, then I shall be glad to support the motion of the Senator from Missouri.

Mr. REED of Missouri. I may say to my brother that in any event it will be necessary to have some one on the committee because of the Cunningham case. That can not be settled at this time.

Mr. KING. What I had in mind was this: If this matter is to be further discussed or considered before adjournment, I think the Senate should have the benefit of the Senator's views as chairman of the committee and the prestige which his position on the committee would give to the report—although that is not necessary—because of the high standing of the Senator and the knowledge of his views on the questions involved. As soon as it is understood that the report will lie over and not be further considered prior to adjournment, then I shall be very glad to have the motion offered by the Senator adopted.

Mr. REED of Missouri. Mr. President, if any member of the committee with which I have been serving feels that way, I will withdraw my request for the present; but it will be necessary, or at least desirable, that some one be appointed in my stead before this session adjourns, and I beg to suggest the distinguished senior Senator from Arkansas [Mr. ROBINSON].

Mr. KING. Mr. President, I agree with the Senator that before this Congress adjourns the committee should be filled by reason of the departure from the Senate of the chairman of the committee, the senior Senator from Missouri; and before we do adjourn, if no action is taken upon the resolution, I shall be very glad to see the Senator from Arkansas named as a member of the committee.

Mr. ROBINSON of Arkansas. Mr. President, I have not said that I would accept service on the committee, thanking both the Senator from Missouri and the Senator from Utah.

Mr. SMITH. Mr. President, before we leave this subject I desire to ask a question.

The PRESIDING OFFICER. Does the Senator from Utah yield to the Senator from South Carolina?

Mr. KING. I yield.

Mr. SMITH. I did not hear the full discussion. As I understand, the present status of the matter is that the committee has made a preliminary report on the Vare case?

Mr. KING. I think it has been denominated by some member of the committee a final report.

Mr. SMITH. If this report be final, what function will the committee perform if continued?

Mr. KING. I should modify that statement in this way—final in the sense that it is a finality with respect to recommendations touching the Vare case and the right of Mr. VARE to retain his seat; but the report asks that the committee be continued because of the pendency of an action in the circuit court of appeals which is being carried to the Supreme Court of the United States, growing out of one question involved in this case.

Mr. ROBINSON of Arkansas. The report is not final in the strict sense of the term, because the committee's statement shows the necessity for further action by the committee.

Mr. SMITH. So that the present report may be modified in material respects by subsequent action of the committee?

Mr. ROBINSON of Arkansas. No.

Mr. KING. Mr. President, as a member of the committee, my view is that the majority report is the report of the committee. It is possible that if the report is not acted upon the committee might modify it before final action is taken by the Senate. That would probably be the result if Mr. VARE should be able to appear before the committee and present testimony that would cause the committee to modify or change its conclusions upon questions involved in the case. The committee, I think, would have the right to withdraw its report, or at least to file a supplemental one, modifying the terms of the report now before the Senate, so that it would express their views and conclusions.

Mr. ROBINSON of Arkansas. Mr. President, on page 15 of the committee report submitted by the Senator from Missouri this morning is the following language:

> There is still pending before the United States Circuit Court of Appeals, Third Circuit, the habeas corpus proceedings of Thomas W. Cunningham, in which your committee and the Senate is represented by the Hon. George W. Wickersham, and which involves the right and power of the Senate to enforce its orders. In order to make a proper report to the Senate in this matter, and to take such further action with reference to the said Thomas W. Cunningham as may be deemed necessary, it is advisable that the committee continue to exist until the final disposition of the said case.

My view of the matter is that during its future existence the committee would not be precluded from submitting to the Senate any further finding that it might make; but to all intents and purposes the report is final in so far as the right of Mr. VARE to a seat in the Senate is concerned.

Mr. SMITH. Now, Mr. President, may I ask the Senator from Arkansas a question? The recommendation of the committee is adverse; that Mr. VARE is not entitled to his seat. In case of a vote, that would not preclude a vote as to whether he should be seated and then the report adopted; or, if the report is adopted, does it preclude a vote on whether or not Mr. VARE should be entitled to be brought in?

Mr. ROBINSON of Arkansas. My impression is that action by the Senate would come in the form of a resolution expressly declaring that WILLIAM S. VARE is entitled to a seat in the Senate or is not entitled to a seat in the Senate. The resolution which I have presented is that he is not entitled to a seat in the Senate.

Mr. SMITH. I wanted to make that inquiry so that I would know clearly the situation.

Mr. ROBINSON of Arkansas. The resolution that has been presented does not contemplate that Mr. VARE shall first be seated and then immediately be unseated.

Mr. SMITH. It was not my purpose to know whether it contemplated that; but I should like to have an opportunity to have the question so put that I might not prejudice my vote by voting against his being seated as a final expression on my part; but I should like to have an opportunity to vote on what I consider the constitutional right of a State and an individual to be seated, and then I should like to be given the opportunity to decide, from the facts brought out by the committee, as to whether or not I should vote to have him continue to occupy the seat.

Mr. ROBINSON of Arkansas. I think I need hardly state to the Senator from South Carolina that he can secure that opportunity by simply offering a substitute for the resolution presented by me or the Senator from Nebraska. As suggested by the Senator from Washington [Mr. DILL], the Senate has voted heretofore once; but if the Senator from South Carolina wants to vote on the matter again, he can do so by offering a resolution to that effect.

Mr. SMITH. I was hoping that there might be an opportunity to act on the case without that being done. Perhaps that may be done before the final vote is taken.

Mr. ROBINSON of Arkansas. I myself have no sympathy whatever with the proposal just made by my friend from South Carolina. So far as I am concerned, I will not be a party to a proceeding, after the course this matter has taken, first to

seat Mr. VARE, with the understanding that he is to be immediately unseated. I think that would be——

Mr. McKELLAR. It would serve no useful purpose.

Mr. ROBINSON of Arkansas. It would serve no useful purpose, and would be absurd, meaning no disrespect to my friend from South Carolina.

Mr. SMITH. I understand; but what we may do now may be a precedent for to-morrow and hereafter, and our unseating Mr. VARE instanter might be invoked as a precedent in a case when the circumstances were not sufficient to justify our unseating the incumbent.

Mr. McKELLAR. May I suggest that we have already made that precedent?

The PRESIDING OFFICER. Does the Senator from Utah yield further, and if so, to whom?

Mr. KING. I yield to the Senator from South Carolina.

Mr. SMITH. I understand that we have in one case established that precedent, but repeating it from day to day might strengthen it.

Mr. McKELLAR. We have done it twice.

Mr. SMITH. If the Senator from Utah will allow me, I want to state that I have no more taste and no more tolerance for the orgies that have been brought out in several of these cases than any other Senator, but I do not want to establish a precedent that might be invoked to the disaster of States and individuals. I do not want to be a party to establishing a precedent which it is not necessary to establish in order to carry out what we can do constitutionally, sanely, and soundly.

Mr. BRATTON. We have already established that precedent once.

Mr. SMITH. I understand we have established it one time, but why repeat a wrong a half a dozen times?

Mr. BRATTON. It is a question whether it is wrong.

Mr. SMITH. It is, in my opinion.

Mr. McKELLAR. We not only made the precedent in the Vare case but we made it in the Smith case.

Mr. KING. Mr. President, many tributes have been paid to the Senator from Missouri, not only in the Senate but throughout the country. His ability, courage, and devotion to what he conceives to be right have given to him a deservedly great reputation. His long service in the United States Senate has afforded him opportunities to render valuable service to his country. His voluntary departure from the Senate will be a great loss, not only to the legislative branch of the Government but to the entire country.

During my 12 years of service in the Senate I have learned to admire the Senator and to appreciate the arduous and effective work which he has performed in the interest of the public. He has been a defender of the Constitution, and has lifted his eloquent voice in defense of individual rights and the rights of local self-government.

In the investigation of the so-called Vare case the Senator from Missouri has borne the heaviest part of the burden, which the Senate by its direction imposed upon the special committee.

I am not in entire accord with members of the committee, as their views are expressed in the report just submitted by the Senator from Missouri as chairman of the special committee. The Senator in submitting the report has referred to a statement made by me and incorporated in the report. On page 15 of the report it reads:

> All of the members of the committee concur in the foregoing report.

Then follows the statement—

> But in addition thereto Senator KING presents the following statement, giving his individual conclusions.

I do not fully agree with all the conclusions contained in the report or with that part of the report which states, in effect, that Mr. VARE should be denied his seat in the Senate without having been sworn in and that the case should now be closed.

I have upon former occasions, and in a number of cases which have come before the Senate, taken the position that persons presenting themselves to the Senate armed with proper certificates from sovereign States were entitled to be sworn in, even though the situation was such as to call for their subsequent exclusion from the Senate.

First, let me read from the report the paragraphs which I prepared and which are found therein:

> The record shows that in August, 1928, Mr. VARE suffered a paralytic stroke, since which time he has been unable to appear before the committee or the Senate. The record also shows that he is still in a serious physical condition as a result of such stroke. It also appears that he desires to come before the committee and testify and speak in his own behalf and perhaps offer additional testimony.
>
> The record as it now stands would warrant action by the committee adverse to the right of Mr. VARE, after being sworn in, to retain his seat in the Senate; but in view of his serious physical condition and his desire to be heard by the committee, and perhaps offer further testimony, I am unwilling to close the case and submit a final report to the Senate. In my opinion a further reasonable time should be given Mr. VARE to present his case to the committee.

I shall not at this time attempt to discuss the case or to analyze the testimony which has been submitted. I have felt that Mr. VARE should have full opportunity to present to the committee any evidence which he might have bearing upon the report made by Mr. Clapp and others, agents of and representing the committee. The facts found by them have had an important bearing upon the conclusions which I have reached. These facts, in my opinion, might very well be the controlling factor in determining the action of the Senate upon the question of Mr. VARE's right to a seat in the Senate. It is my opinion that in view of Mr. VARE's serious illness, and the importance of the facts submitted by Mr. Clapp, that the former should be given an opportunity to present to the committee his views upon these facts, and to submit by way of answer or reply thereto any pertinent evidence he desires to offer.

The action of the Senate in denying Mr. VARE the right to take the oath of office as Senator was based upon the testimony taken by the committee dealing almost exclusively with the primary election. The subsequent investigation by the committee related largely to the general election and the charges of fraud and corruption in connection therewith.

I might add that the record shows that in the primary election Mr. VARE personally expended $71,438. This sum was used exclusively by him in sending out letters to the voters of Pennsylvania. My recollection is that he sent two letters or circulars to many of the voters of his State, the cost of each letter or circular, including postage, and so forth, being 6½ cents. The record also shows that Mr. Pinchot and his organization spent $187,029 and that the so-called Pepper-Fisher organization expended $1,804,979. There are doubtless some fair-minded persons who would question whether the expenditures in the primary election were sufficient ground for refusing Mr. VARE a seat in the Senate. The question has sometimes been asked what would have been the situation if the principal opponent of Mr. VARE had been nominated instead of Mr. VARE, in view of the fact that the organization with which the former was connected expended considerably more than double the amount expended by the Vare-Beidelman organization.

Senators will recall that there was a bitter contest in Pennsylvania between factions in the Republican Party for control of the Republican machine. There was the so-called Mellon organization, which the record shows sought to wrest control of the Republican Party organization in the State from the so-called Vare organization.

Under the laws of Pennsylvania most of the party leaders, including the precinct, county, and district chairmen, are elected at the same time the general primary election is held. In the primary election at which Mr. VARE received the nomination for Senator there were more than 3,000 of these political officers to be elected. Congressmen, and also the State ticket, including members of the legislature, judges, and so forth, were to be elected. It is somewhat difficult to determine just what part of the amount expended in the election should be charged against the senatorial and congressional candidates, and because of this difficulty it is the view of many that under conditions such as are shown in this election the senatorial candidates should be charged with the entire amounts expended by the organizations or groups with which they were respectively identified.

I have sometimes felt that it is unfortunate that elections for Senators and Congressmen are not held at different times from State elections. If this were done it would be very easy to determine just what was expended for the election of Senators and Congressmen. I might add that Mr. Beidelman was a candidate for governor upon a platform demanding repeal of the law which exempted certain corporations in the State of Pennsylvania from taxation. It is obvious that an issue of this character would arouse the opposition of corporations which were favored under the law freeing them from the burdens of taxation. And it is quite certain that such beneficiaries gave their support to the so-called Fisher-Pepper organization.

It is quite likely that contributions and expenditures were made in behalf of Beidelman by persons not concerned in the election of Mr. VARE and that support was given to Mr. Fisher by persons who were not particularly concerned in the election of Mr. Pepper. However, in this election, with all of these conflicting interests, currents and cross-currents, the expenditures by the triangular groups were, so to speak, thrown into one hopper and ascribed to the three senatorial candidates. This situation calls for a fair and just appraisal of the situation and the factors involved.

Mr. President, just a word in view of the statement made by the Senator from Arkansas [Mr. ROBINSON] and the questions submitted by the Senator from South Carolina [Mr. SMITH]. As I stated a moment ago I have taken the view that when a person presents himself with a certificate of a sovereign State, he should be permitted to take the oath of office. There are many precedents in support of this view. I concede that there are some opposing precedents. A number of years ago this question was sharply raised in the House of Representatives. Majority and minority reports were filed in the case to which I refer.

The minority report was prepared by Representatives Littlefield, of Maine, and De Armond, of Missouri, and in my opinion it contains one of the ablest discussions ever presented upon this important question. In it the contention was made that a Representative-elect, having the certificate of his State, was entitled to be sworn in. The precedents were examined and the question elaborately argued. Some of the great lawyers of the House supported this view although a majority of the Members declined to follow it.

Mr. President, I have given this case most serious consideration realizing as I do its importance, not only to Mr. VARE but to the people of his State and the United States. After weighing all the facts, I have reached the conclusion that it would not be proper or right to close the case at this time. In my opinion it should be continued, and Mr. VARE given further reasonable time to appear and present his views to the committee and to the Senate, and also to adduce any pertinent testimony that he may have to offer relating to the matters embraced in the findings of Mr. Clapp, the committee's representative. Important as the question of expenditures is in determining the issues involved, I regard the charges of fraud and corruption in the city of Philadelphia in the primary as well as in the general election, as of greater importance in the final determination of the question before us.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived the Chair lays before the Senate the unfinished business, which will be stated.

The CHIEF CLERK. The joint resolution (S. J. Res. 117) authorizing an investigation and survey for a Nicaraguan canal.

Mr. DILL. Mr. President, I have listened to the argument of the Senator from Utah for the past few moments, and I want to say that it is the very kind of argument that Mr. VARE would wish to have presented in his behalf. I have great respect for the Senator from Utah and his views and for the study he has made of the question, but if the viewpoint expressed by him here is to be accepted by the Senate, then all that a man running for office need to do is to have whatever money he wants to expend in excess of what he should spend handled by some committee that has charge of the party ticket as a whole, and then he can come in and say, "I do not know how much of this was spent for me and I do not know how much was spent for several hundred other candidates."

It is a dangerous proposition. It is a dangerous suggestion. If it is recognized and accepted by the Senate, it strikes at the very heart of the idea of controlling campaign expenditures. I not only disagree with it most radically, but I think it would be a most unfortunate thing if the Senate by any action, either a committee report or in any other way, lent countenance to the idea that a man can not be held accountable for the money spent in his behalf, because it is spent by some organization that may be supporting other candidates.

Mr. President, I shall not enlarge upon the discussion now, but I did want to say that much at this moment, because I did not want the statement to pass unchallenged.

Mr. KING. Mr. President, the Senator from Washington misconceives my position. I indicated that I regarded as the most serious question presented in the record, that of fraud and corruption in the primary and general elections. I believe that the expenditures in the primary election were too great and can not be justified; but it is a fact that perhaps the greater part of such expenditures were not directly for Mr. VARE or Mr. Pepper, but for the organizations with which they were connected, and because of the struggle between opposing factions in the Republican Party to secure control of the party organization.

MAJ. WALTER REED AND ASSOCIATES

Mr. REED of Pennsylvania. Mr. President, from the Committee on Military Affairs I report back favorably, with amendments the bill (H. R. 13060) to recognize the high public service rendered by Maj. Walter Reed and those associated with him in the discovery of the cause and means of transmission of yellow fever, and I submit a report (No. 1912) thereon. I ask unanimous consent for its present consideration.

In a word this is what the bill provides. Back in October, 1900, Dr. Walter Reed took his yellow fever experiment crew to Cuba and did one of the greatest things that had ever been done up to that time in the history of preventive medicine. He found that all existing theories for the cause of yellow fever were wrong, and he proved that it was due to the bite of an infectious mosquito of a particular variety. He could not have proved that fact had it not been for the heroic assistance of about 25 men in his detachment who underwent the most terrible experiments in order to prove that yellow fever was not contagious but was contracted only in this one way.

Some of these men put on the underclothing and night clothing of persons who had died of yellow fever, and for a month slept in the stained and almost indescribable bed clothing of patients who had died of yellow fever. Probably no finer heroism for the benefit of humanity had ever occurred in the history of the world. Others of these men, after the theory of mosquito inoculation had been proved to be probable, exposed themselves to the bite of infectious mosquitoes and when at first they did not fall ill of yellow fever they exposed themselves again and again until they did get it.

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator what is the relief afforded?

Mr. REED of Pennsylvania. It is a House bill and we have amended it only to make the names absolutely correct. It provides that in the Army register there shall be carried as long as they live the names of this group of heroic men who underwent the experiment, and, secondly, that for all of the group there shall be paid the same pension as is now being paid to a considerable number of them by special acts, a uniform pension of $125 a month, which is the amount that has been fixed in those special acts.

Mr. ROBINSON of Arkansas. Were the special acts passed on account of this service?

Mr. REED of Pennsylvania. Yes; on account of this service only, and there have been a half a dozen of them. It seemed wise to the committee that the group should be treated as a whole.

Mr. GERRY. Mr. President, may I ask the Senator if the bill includes any provision for any of the widows?

Mr. REED of Pennsylvania. It includes a provision for the widows of two of the men.

Mr. ROBINSON of Arkansas. Mr. President, I merely want to say that judging from the statement submitted by the Senator from Pennsylvania, the measure seems to be meritorious, and I shall give it my hearty support.

Mr. JOHNSON. Mr. President——

The PRESIDING OFFICER (Mr. BROOKHART in the chair). Does the Senator from Pennsylvania yield to the Senator from California?

Mr. REED of Pennsylvania. I yield.

Mr. JOHNSON. I merely wanted to say that no braver thing ever was done. No more heroic action ever occurred. Those whom this measure seeks to honor ought to be honored, and honored to the full. I hope that the bill will pass.

Mr. COPELAND. Mr. President, I am delighted that the Senator from Pennsylvania has brought this report to us. I have had pending here for some time, as the Senator knows, a similar bill, S. 3364. I am happy that this act of justice is to be done to-day. Certainly we should do honor to those men who risked their lives in order that science and humanity might benefit. Thousands of lives have been saved through their sacrifices. All honor to Reed and his brave associates!

Mr. BLEASE. Mr. President, some time ago I introduced into the RECORD an article relating to this matter and especially relating to Mr. Levi E. Folk, of South Carolina, who was one of the young men who went through this ordeal and stayed in it from the beginning to the end. I hope the bill will be passed.

The PRESIDING OFFICER. 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 amendments of the Committee on Military Affairs were, on page 1, line 10, after the name "Agramonte," to strike out "John H. Andrus" and insert "James A. Andrus"; on page 2, line 1, after the name "Covington," to strike out "William H. Deans" and insert "William H. Dean"; in line 2, to strike out "Wallace Forbes" and insert "Wallace W. Forbes"; in the same line, strike out the name "P. Hamann" and insert "Paul Hamann"; in line 4, to strike out "William Olson" and insert "William Olsen"; in line 5, before the name "R. P. Cooke" to insert "Doctor"; in the same line, strike out "Thomas H. England" and insert "Thomas M. England"; and on page 3, line 5, after the word "Private," to strike out "John H. An-

drus" and insert "James A. Andrus," so as to make the bill read:

Be it enacted, etc., That in special recognition of the high public service rendered and disabilities contracted in the interest of humanity and science as voluntary subjects for the experimentations during the yellow-fever investigations in Cuba, the Secretary of War be, and he is hereby, authorized and directed to publish annually in the Army Register a roll of honor on which shall be carried the following names: Walter Reed, James Carroll, Jesse W. Lazear, Aristides Agramonte, James A. Andrus, John R. Bullard, A. W. Covington, William H. Dean, Wallace W. Forbes, Levi E. Folk, Paul Hamann, James F. Hanberry, Warren G. Jernegan, John R. Kissinger, John J. Moran, William Olsen, Charles G. Sonntag, Clyde L. West, Dr. R. P. Cooke, Thomas M. England, James Hildebrand, and Edward Weatherwalks, and to define in appropriate language the part which each of these persons played in the experimentations during the yellow-fever investigations in Cuba; and in further recognition of the high public service so rendered by the persons hereinbefore named, the Secretary of the Treasury is authorized and directed to cause to be struck for each of said persons a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury, and to present the same to each of said persons as shall be living and posthumously to such representatives of each of such persons as shall have died, as shall be designated by the Secretary of the Treasury. For this purpose there is hereby authorized to be appropriated the sum of $5,000; and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts annually as may be necessary in order to pay to the following-named persons during the remainder of their natural lives the sum of $125 per month, and such amount shall be in lieu of any and all pensions authorized by law for the following-named persons: Pvt. Paul Hamann; Pvt. John R. Kissinger; Pvt. William Olsen, Hospital Corps; Pvt. Charles G. Sonntag, Hospital Corps; Pvt. Clyde L. West, Hospital Corps; Pvt. James Hildebrand, Hospital Corps; Pvt. James A. Andrus, Hospital Corps; Mr. John R. Bullard; Dr. Aristides Agramonte; Pvt. A. W. Covington, Twenty-third Battery, Coast Artillery Corps; Pvt. Wallace W. Forbes, Hospital Corps; Pvt. Levi E. Folk, Hospital Corps; Pvt. James F. Hanberry, Hospital Corps; Dr. R. P. Cooke; Pvt. Thomas M. England; Mr. John J. Moran; and the widow of Pvt. Edward Weatherwalks.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

ALLEGHENY RIVER SEWER OUTLET, PITTSBURGH, PA.

Mr. JONES. Mr. President, from the Committee on Commerce I report back favorably without amendment the bill (S. 5746) to legalize the sewer outlet in the Allegheny River at Thirty-second Street, Pittsburgh, Pa., and I call it to the attention of the Senator from Pennsylvania [Mr. REED].

Mr. REED of Pennsylvania. Mr. President, I ask unanimous consent for the immediate consideration of the bill. It will not lead to any discussion. It is to legalize an existing sewer opening built in the city of Pittsburgh to take the place of one that had fallen in. The city officials did not realize that it required the consent of the Chief of Engineers. They went ahead and built it and are now told that it requires the consent of Congress.

Mr. ROBINSON of Arkansas. The bill is approved by the War Department?

Mr. REED of Pennsylvania. Yes.

The PRESIDING OFFICER. 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, which was read, as follows:

Be it enacted, etc., That the sewer outlet constructed in the Allegheny River at Thirty-second Street, Pittsburgh, Pa., by the city of Pittsburgh, be, and the same is hereby, legalized to the same extent and with like effect as to all existing or future laws and regulations of the United States as if the permit required by the existing laws of the United States in such cases made and provided had been regularly obtained prior to the construction of said sewer outlet.

SEC. 2. That any changes in said sewer outlet which the Secretary of War may deem necessary and order in the interest of navigation shall be promptly made by the owner thereof.

SEC. 3. That the right to alter, amend, or repeal this act is hereby expressly reserved.

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

KANKAKEE RIVER DAM, MOMENCE, ILL.

Mr. JONES. Mr. President, from the Committee on Commerce I report back favorably without amendment the bill (H. R. 13831) granting the consent of Congress to the Momence conservancy district, its successors, and assigns, to construct, maintain, repair, and improve a dam across the Kankakee River at Momence, in Kankakee County, Ill. I call the attention of the Senator from Illinois [Mr. GLENN] to the bill.

Mr. GLENN. Mr. President, I request immediate consideration of the bill.

Mr. JOHNSON. Mr. President, may I ask the Senator from Illinois if this is the bill which in the second section thereof provides for recapture of the dam in certain contingencies?

Mr. GLENN. I understand that the second section provides for recapture by the Government in case there is any necessity for it.

Mr. JOHNSON. The bill provides for a recapture privilege. If the Senator from Illinois is satisfied with that provision, I have no objection. I simply wanted to call his attention to it.

Mr. GLENN. I have discussed it with the Senator from Washington. There is practically no power available there, I understand.

The PRESIDING OFFICER. 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, which was read, as follows:

Be it enacted, etc., That the consent of Congress be, and is hereby, granted to the Momence conservancy district, its successors and assigns, to construct, maintain, repair, and improve a dam across the Kankakee River at Momence, in Kankakee County, Ill.: *Provided,* That work shall not be commenced until the plans therefor have been submitted to and approved by the Chief of Engineers, United States Army, and by the Secretary of War: *Provided further,* That in approving the plans for said dam such conditions and stipulations may be imposed as the Chief of Engineers and the Secretary of War may deem necessary to protect the present and future interests of the United States: *And provided further,* That this act shall not be construed to authorize the use of such dam to develop water power or generate hydroelectric energy.

SEC. 2. The authority granted by this act shall cease and be null and void unless the actual construction of the dam hereby authorized is commenced within one year and completed within three years from the date of approval of this act: *Provided,* That from and after 30 days' notice from the Federal Power Commission, or other authorized agency of the United States, to said Momence conservancy district, or its successors and assigns, that desirable water-power development will be interfered with by the existence of said dam, the authority hereby granted to construct, maintain, repair, and improve said dam shall terminate and be at an end; and any grantee or licensee of the United States proposing to develop a power project at or near said dam shall have authority to remove, submerge, or utilize said dam under such conditions as said commission or other agency may determine, but such conditions shall not include compensation for the removal, submergence, or utilization of said dam.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

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

PROPOSED NICARAGUAN CANAL

The Senate resumed the consideration of the joint resolution (S. J. Res. 117) authorizing an investigation and survey for a Nicaraguan canal.

Mr. McMASTER. Mr. President, I desire to discuss very briefly the measure which is now pending and under consideration by the Senate. The joint resolution calls for a survey of the feasibility and the probable cost of the construction of a Nicaraguan canal. I realize that the distinguished Senator from New Jersey [Mr. EDGE] will insist that this means only the acquiring of information and that it has no other significance. But I wish to call the attention of the Senate to the fact that there never was a canal constructed in America at public expense but that a survey was necessary as the initial step. After the passage of this joint resolution calling for a survey as to the cost of the construction of a Nicaraguan canal, within two years' time there will be introduced into this body a bill providing for an appropriation of from $200,000,000 to $300,000,000 for the construction of that canal, and that eventually its cost will probably amount to $500,000,000.

At this point, Mr. President, it would be well to review certain phases of the great political campaign which was concluded last November. It will be remembered that both political parties, that the presidential candidates of the two major politi-

cal parties, that the vice presidential candidates of those two parties, both of whom are distinguished and honored Members of this body, vied with each other in their promises for agricultural relief. As a matter of fact, Mr. President, those western prairies reverberated with their clarion voices telling the farmers of the Northwest that at last their hour in court had arrived. Both political parties and the leaders of those political parties told the farmers of the Northwest that the agricultural question was the greatest economic question which had confronted this Nation in more than a century.

They went further than that, and said that the agricultural question was the paramount question. They said that when Congress convened that question should be the first question that should be considered; that all other questions should be laid aside. They made the definite promise to the American people that the agricultural question would be settled with finality and that it would be settled justly.

Now, Mr. President, after the heat and the passion and the strife and the turmoil of that campaign have died away, and after Congress has again convened, we find that one of the first measures for agricultural relief was the bill providing for the building of cruisers to protect the grain of the farmers upon the highways of the sea.

Then, again, both political parties in the campaign in analyzing the farm question said that one of the evils affecting the farmer was high transportation rates. They told us that because of increased costs of living and high wages the freight charges imposed upon the farmers were burdensome and excessive, and they said that one of the elements in the solution of that problem would be the improvement of the inland waterways of this country in order to give agriculture an opportunity to transport its products by water to European countries, where those products must be sold in competition with the cheap labor and cheap materials of foreign countries. Now, after Congress has assembled, the first measure that we find considered in order to bring relief to the transportation problem of the farmer is the pending joint resolution that eventually will mean the appropriation of $500,000,000 for the building of a Nicaraguan canal. And not one word can be found in the joint resolution in regard to the development of the inland waterways, which was promised to agriculture of the Northwest during the last campaign.

Mr. President, what a wondrous and glorious fulfillment of campaign promises! Blessed be the memory of that character of redemption of agricultural promises. This joint resolution sounds with a fine ring of irony in the ears of the farmers of the country!

Mr. EDGE. Mr. President, will the Senator from South Dakota yield for a statement?

Mr. McMASTER. I yield.

Mr. EDGE. I have no desire to enter into a political discussion or one as to the alleged failure to carry out campaign promises, because I am quite sure they will be carried out, but I must draw the attention of the Senator to the fact that the joint resolution now before the Senate was introduced on March 20 last year—1928—almost a year ago, and before either political party even held its national convention.

Mr. McMASTER. But during the campaign they were not advocating the expenditure of $500,000,000 to build the Nicaraguan canal. They were advocating the expenditure of millions to develop inland waterways.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator from South Dakota yield to me?

Mr. McMASTER. I yield.

Mr. ROBINSON of Arkansas. It would be interesting if the Senator from South Dakota would permit the Senator from New Jersey to elaborate the statement he just made and tell us how it is proposed to redeem the pledge for farm relief, and what is the nature of the measure which it is proposed to pass for that purpose.

Mr. EDGE. Mr. President, I do not want to take the time of the Senator from South Dakota, but I will say that in a very few days now—approximately one week—a new President of the United States will be inaugurated and I am quite sure his message to the country——

Mr. ROBINSON of Arkansas. Is that all the farm relief the Senator from New Jersey is looking for?

Mr. EDGE. I am quite sure the message of the President elect to the country will very clearly and very definitely elaborate a practical program of farm relief.

Mr. HEFLIN. Mr. President, before the Senator from New Jersey gets away from that matter there has been so much said in reference to the McNary-Haugen bill that I should like to repeat a story which has been current around the Capitol. During the recent campaign when Governor Smith was to go out into the West and discuss the farm-relief question somebody said to Raskob that he had better post Governor Smith on the McNary-Haugen bill, and Raskob rejoined, "Has not that bill been paid yet?" [Laughter.]

Mr. McMASTER. Mr. President, continuing with the discussion, at the time of the completion of the Panama Canal there was naturally great rejoicing throughout the Nation over that particular achievement, and I have been told that farmers in the West built bonfires in commemoration and celebration of that great event. But those bonfires have long since been extinguished and in the sobering experience of the years which have followed, the farmers have discovered that the building of the Panama Canal has laid upon them extremely heavy burdens. It is a fact that in the interior industries have been obliged to change their location in order to get upon the waterways of the country; that industries have had their markets curtailed; that young and promising industries have absolutely been forced to go out of business.

Mr. President, I have a letter here from one of the most important manufacturing associations of the Middle West which represents industries with over 800,000 employees whose manufactured products exceed more than $500,000,000 a year. I desire to quote what is said in regard to the effect of the building of the Panama Canal upon the great interior; and I mean by "the interior" that range of country extending from the middle of the Ohio clear out to the city of Spokane in the eastern part of the State of Washington. The letter is from the secretary of this manufacturing association. We must bear in mind that no one had any objection to the building of the Panama Canal providing that at the same time there had been a corresponding program of waterway development in the interior. If that had been consummated and brought about, then these evil effects would not have been visited upon the manufacturing and agricultural interests of the Northwest. Listen to this statement:

> Since the completion of this canal in 1914 these manufacturers have lost trade with the Pacific coast and South America amounting in the aggregate to many hundreds of millions of dollars. They have lost this trade because manufacturers and dealers on the Atlantic coast and some distance inland have been favored with exceedingly low rates for the transportation of their products by water from the eastern ports through the Panama Canal to ports on the Pacific coast.
>
> This low water rate applies to all manufactured products in Illinois and other Middle Western States, and includes many articles which manufacturers of these States formerly sold to western customers in great volume. It includes iron and steel, agricultural implements, canned goods, cement, chemicals, clothing, drugs, electrical machinery, lumber, foundry products, furniture, leather, packing-house products, paper, printing matter, soap, structural ironwork, tinware, and many other commodities. Our middle western manufacturers have seen much of this trade dwindle, flicker, and disappear.

Listen to these handicaps that have been imposed upon the industries of the Middle West through the failure of the Federal Government to complete the program of inland-waterway development.

> It costs $3,060 to ship a carload of first-class freight from Chicago to San Francisco, and only $1,200 from Baltimore to San Francisco. A second-class carload from Chicago costs $2,658 to San Francisco, from Baltimore $1,050. The rate on third class is $2,205, compared with $900; fourth class, $1,866, compared with $750; fifth class, $1,588, compared with $600. * * *
>
> It costs $768 to ship a carload of canned goods from Chicago to San Francisco, and only $210 to ship from Baltimore to San Francisco by the water route.

Mr. President, that is the unbearable burden that has been inflicted upon the interior by the construction of the Panama Canal and through the failure of the Federal Government to complete the program of inland-waterway development. I want to ask how much longer will that condition be permitted to exist? We have pending before the Senate now a joint resolution calling eventually for the appropriation of $500,000,000 to build a Nicaraguan canal, but containing no provision for the completion of the inland-waterway program.

Mr. DILL. Mr. President, will the Senator yield?

Mr. McMASTER. I yield.

Mr. DILL. The Senator realizes that the only way additional money can be secured for this purpose will be by some kind of a new tax on the American people. What does the Senator think will be the attitude of the people toward a new tax levied in order to build another canal and leave the inland waterways as they are?

Mr. McMASTER. Mr. President, in concluding I wish to say that the Senators from the interior have always been generous to other sections of the country. The Senators from the interior have always supported the tariff system which has conferred

great benefit upon the eastern section; they have voted hundreds and hundreds of millions of dollars for the development of the harbors and waterways of the Coast States of the Union, and it seems to me that the time has now come when the interior should insist upon a program of development on its own account. The farmers need cheaper water transportation in order to ship their grain to foreign markets.

Mr. President, in view of the campaign promises made to agriculture by both political parties, every Senator, out of respect to those promises, ought to vote against this joint resolution. Most assuredly the funeral rites ought to be held over those campaign promises and they ought to be given decent burial before we flaunt before the eyes of the people a joint resolution of this nature calling for the appropriation eventually of $500,000,000 for the building of a Nicaraguan canal. I repeat, that out of respect to those campaign promises, this joint resolution ought to be defeated; and before any consideration is given to it we ought to give complete consideration to the development of the inland waterways of this country.

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. 17223) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1929, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1929, June 30, 1930, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H. R. 17223) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1929, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1929, and June 30, 1930, and for other purposes, was read twice by its title and referred to the Committee on Appropriations.

DECISION OF DISTRICT COURT OF APPEALS IN RADIO CASE

Mr. DILL. Mr. President, the Court of Appeals of the District of Columbia this morning decided the radio case of WGY adversely to the Radio Commission; and I ask unanimous consent to have that decision printed in the RECORD at this point in my remarks.

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

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

The General Electric Co., appellant, *v.* Federal Radio Commission. No. 4870

The People of the State of New York, appellant, *v.* Federal Radio Commission. No. 4871

The General Electric Co., appellant, *v.* Federal Radio Commission. No. 4880

Appeals from a decision of the Federal Radio Commission.

Before Martin, Chief Justice, and Robb and Van Orsdel, Associate Justices.

These appeals are brought under section 16 of the radio act of 1927 (44 Stat. 1169) for a review of a decision of the Federal Radio Commission whereby the commission refused the application of appellant for a renewal of its broadcasting license dated November 1, 1927, for the operation of station WGY, located at Schenectady, N. Y., with permission to use 50 kilowatts power, at a frequency of 790 kilocycles, and without limitation as to time of operation.

The novelty of this subject justifies a preliminary reference to the controlling statutes and also a statement of certain elementary facts drawn in part from the record and in part from common knowledge and public history.

The electric impulses which carry sounds when broadcast proceed through the ether in waves which move at a distance of 300,000,000 meters per second. The length of the waves may be measured by scientific instruments, likewise the number of waves produced each second; the latter measurement is called the frequency of a station, the former its wave length. A vast demand is made for the use of the ether for various purposes, of which broadcasting is only one. In the present state of the art the broadcasting band is limited to frequencies extending from 550 to 1,500 kilocycles per second, or if stated in wave lengths from 545 to 200 meters. It is conceded that in order to avoid interference between stations when broadcasting at the same time there should be a difference of 10 kilocycles between the frequencies respectively employed by them, otherwise they will interfere with one another and can not be clearly distinguished by the receiver. It follows that there are but 96 practicable frequencies, or so-called wave channels, employed in broadcasting as at present carried on. Six of these channels have been set aside for the exclusive use of stations in Canada, with the result that only 90 remain for use in the United States. It is agreed that certain broadcasting stations, employing high power, should be recognized as national and be given the exclusive use of appropriate frequency bands in order to avoid interference with one another and with smaller stations, while certain other stations, recognized as regional or local, operate with less power, and for this reason and because of relative geographical locations may operate with the same frequency without serious interference with one another. It is well known that the time of day or night which may be allotted to a broadcasting station is a factor of importance in its operation. Owing to the fact that the sun's rays absorb the broadcasting waves there is less interference among stations in the daytime than at night. The greater audiences, however, listen in to radio programs between sundown and midnight and from September until March, and accordingly that period is the most advantageous for operation.

On August 13, 1912, Congress passed "An act to regulate radio communication" (37 Stat. 320), which was the first general law upon the subject, and was in force from its date until the passage of the act of 1927. The art of broadcasting, however, as now understood had not then been developed, as appears from the following extract from the report of the Senate committee upon the bill:

"The term 'radio communication' instead of 'radio telegraphy' is used throughout the bill so that its provisions will cover the possibility of the commercial development of radio telephony (sec. 6, p. 14). Experiments have been made here and abroad for some years in carrying the human voice on hertzian waves, but with only limited and occasional results. Radio telephony involves the application of the same principles as are involved in inventions to enable apparatus to select and record accurately one message on a given wave length out of a mass of messages on various lengths. When this latter result has been attained—an unfulfilled promise of some years' standing—radio telephony will quickly follow. The bill is framed to be adjusted to that improvement when it comes, but in the meantime it deals with the art as it exists to-day." (S. Rept. 698, 62d Cong., 2d sess., pp. 5, 7.)

The "unfulfilled promise" thus referred to was finally fulfilled, and the first broadcasting station in the United States was constructed in the year 1920. Other similar stations rapidly followed, and owing to the lack of effective regulation under the act of 1912, a chaotic condition known as the "breakdown of the law" ensued, and the usefulness of the art was for the time being seriously impaired.

In order to correct this condition Congress enacted the act of February 23, 1927, entitled "An act for the regulation of radio communication, and for other purposes" (44 Stat. 1162). This act, which is yet in force, forbids all radio broadcasting in this country except under and in accordance with a license granted under the provisions of the act. For the purposes of the act the United States is divided into five zones, the first zone including the State of New York and certain other Northeastern States, while the fifth zone includes the State of California and certain other Western States. The act establishes the Federal Radio Commission with power to classify radio stations, to prescribe the nature of the service or class of stations, to assign bands of frequencies or wave lengths to the various stations or classes of stations, and determine the power which each station shall use and the time during which it shall operate, to determine the location of classes of stations or individual stations, and to make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the purposes of the act, provided however, that changes in the wave lengths, authorized power, in the character of emitted signals, or in the times of operation of any station, shall not be made without the consent of the station licensee unless, in the judgment of the commission, such changes will promote public convenience or interest or will serve public necessity or more fully comply with the provisions of the act. The act provides that the licensing authority, if public convenience, interest, or necessity will be served thereby, subject to the limitations of the act, shall grant to any applicant therefor a station license provided for by the act; and that in considering applications for licenses, when and in so far as there is a demand for the same the licensing authority shall make such a distribution of licenses, bands of frequency or wave lengths, periods of time for operation, and of power among the different States and communities as to give fair, efficient, and equitable radio service to each of the same. The act provides that no license for the operation of a broadcasting station shall be for a longer term than three years, and upon the expiration of any license, upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed three years; and no renewal of an existing station license shall be granted more than 30 days prior to the expiration of the original license. The act also provides that if upon examination of any application for a station license or for the renewal or modification of such a license the licensing authority shall determine that public interest, convenience, or necessity would be served by the granting thereof, it shall authorize the issuance, renewal, or modification thereof in accordance with its finding, but if the licensing authority upon examination of any such application does not reach such decision with respect thereto, it shall notify the applicant thereof, and shall fix and give notice of a time and place for hearing thereon, and shall afford such applicant an opportunity to be heard under such rules and regulations as it may prescribe. The act also provides that any applicant for the renewal of an existing sta-

tion license whose application is refused by the licensing authority (in this case the Federal Radio Commission) shall have the right to appeal from such decision to this court, by filing with the court within 20 days after the decision complained of is effective, notice in writing of the appeal and of the reasons therefor; that the licensing authority shall be notified of the appeal by service upon it, prior to the filing thereof, of a certified copy of the appeal and of the reasons therefor; and within 20 days after the filing of the appeal the licensing authority shall file with the court the papers and evidence presented to it upon the original application for a permit or license, and a copy of its decision thereon and a full statement in writing of the facts and the grounds for the decision as found and given by it; that the court may order the taking of additional evidence in such manner as it may deem proper; that the court shall hear, review, and determine the appeal upon the record and evidence, "and may alter or revise the decision appealed from and enter such judgment as to it may seem just."

By force of an amending act, known as the Davis Act, passed March 28, 1928 (45 Stat. 373), it is provided that the people of all the zones established by the act of 1927 "are entitled to equality of radio-broadcasting service, both of transmission and of reception, and in order to provide said equality the licensing authority shall as nearly as possible make and maintain an equal allocation of broadcasting licenses, of bands of frequency or wave lengths, of periods of time for operation, and of station power to each of said zones when and in so far as there are applications therefor; and shall make a fair and equitable allocation of licenses, wave lengths, time for operation, and station power to each of the States, the District of Columbia, the Territories, and possessions of the United States within each zone, according to population." And that "the licensing authority shall carry into effect the equality of broadcasting service hereinbefore directed, whenever necessary or proper, by granting or refusing licenses or renewals of licenses, by changing periods of time for operation, and by increasing or decreasing station power, when applications are made for licenses or renewals of licenses."

The General Electric Co. was first licensed to operate station WGY on February 4, 1922, under the act of 1912. The license was for three months; the power, 1,500 watts; the frequency, 832.8 kilocycles, corresponding to a wave length of 360 meters. Thereafter, during successive periods of three months each, the company applied for and was granted renewals of its licenses, each for the period of three months. By the renewal of May 21, 1923, it was assigned a frequency of 790 kilocycles, which it has had ever since, although at times the same frequency has been concurrently used by other licensed stations. The station power was gradually advanced by successive renewals from 1,500 watts to 50,000 watts, with greater power allowed for experimental purposes. On June 1, 1927, the first license issued to the company under the act of 1927 was received by it. This license was for the period ending July 31, 1927, and granted a frequency of 790 kilocycles, the time to be shared with station WHAZ. On September 15, 1927, a renewal license was issued to the company for the term ending October 14, 1927; frequency, 790 kilocycles; power, 50,000 watts; time of operation to be shared with station WHAZ. On November 1, 1927, a similar renewal license was granted the company for the term ending December 31, 1927, with the same frequency and power, but with unlimited time of operation. The licenses issued under the act of 1927 contained the following term: "This license is issued under and in accordance with the radio act of 1927, and all of the terms and conditions thereof are made a part hereof as though specifically set out in full herein." By certain general orders of the commission the license dated November 1, 1927, was extended until November 11, 1928, being a period slightly in excess of one year. On January 14, 1928, the company filed an application for a renewal of this license. On October 12, 1928, the commission authorized a revision of the allocation of all broadcasting stations, to take effect on November 11, 1928. By the terms of this revision WGY was granted a frequency of 790 kilocycles and power of 50,000 watts as before, subject to the limitation that the station was to share this frequency with station KGO, Oakland, Calif., and was not to operate after sunset at the latter station. This would require WGY to cease operating at the following average times throughout the year, to wit: During the month of January, at 8.17 o'clock; February, 8.48; March, 9.18; April, 9.47; May, 10.17; June, 10.32; July, 10.28; August, 10; September, 9.16; October, 8.32; November, 8.01; December, 7.56. Station KGO, Oakland, Calif., also belongs to the General Electric Co. and operates with a power of 10,000 watts. The commission's order accordingly granted a cleared or exclusive channel of 790 kilocycles for the use of the two stations, granting KGO full time of operation and WGY limited time at night as aforesaid. Appeals 4870 and 4871 herein were filed on November 9, 1928. Appeal 4880 was filed on November 30, 1928. They present the same issue, and while the earlier appeals may have been premature the last appeal conforms to the rules and is regular.

The appellant rightly contends that the refusal of the commission to renew its license, except as modified with respect to the time of operation, amounted to a refusal of a renewal within the sense of the act of 1927; and appellant contests the commission's action upon a claim (1) that it wrongfully deprives appellant of its property rights by preventing the full-time operation of station WGY; and (2) that in fact the public convenience, interest, and necessity will be served by renewing appellant's former license with unrestricted time of operation, and will not be served by the modification aforesaid.

In respect to appellant's first contention we may say that under the commerce clause of the Constitution Congress has the power to provide for the reasonable regulation of the use and operation of radio stations in this country and to establish agencies such as the Federal Radio Commission to give effect to that authority. Without such national regulation of radio a condition of chaos in the air would follow, and this peculiar public utility which possesses such incalculable value for the social, economical, and political welfare of the people and for the service of the Government would become practically useless. (Davis, Law of Radio, 71; Zollman, Law of the Air, 102, 103.) Reference is made in appellee's brief to a decision by Judge Wilkerson in White *v.* Johnson, United States attorney, United States district court, Chicago, not yet reported, wherein it is said:

"The construction of plaintiff's plant and its operation under the license obtained prior to the act of February 23, 1927, did not create property rights which may be asserted against the regulatory power of the United States if that power is properly restricted."

The terms and conditions of the various licenses received and enjoyed by appellant as herein recited also tend to confirm the view that if the time limitation imposed by the commission upon WGY be reasonable and such as to serve the public convenience, interest, or necessity, the order should be sustained; otherwise it should be overruled. Upon this point, however, we feel that the contention of the appellant should be sustained. It appears that station WGY represents a large investment of capital, said to be $1,500,000, adventured in part during the pioneer stages of broadcasting, and that the station has been one of the most important development stations in the country; that through is enterprise important and valuable apparatus has been developed which has greatly advanced the art of broadcasting; that it has been one of three stations recognized in this country as development broadcasting stations; and that at present it carries on great experimental work of this character in the public interest. It appears that within a hundred miles of the station there is a very large population, both urban and rural, estimated to number more than 2,000,000 persons residing in the States of New York, Massachusetts, Vermont, and New Hampshire, who in large part are dependent upon this station for reliable and regular broadcasting service; and that if the station should be silenced during the early hours of the evening, as determined by the commission, the general public within this territory would be seriously prejudiced. In view of the service to the art hitherto rendered by WGY and still continued by it, with the resulting advantage to the public, and in view also of the "public convenience, interest, and necessity" of so great a constituency for full-time operation of the station, it appears that the restriction complained of is not reasonable and should not be enforced.

The considerations inducing the action of the commission are fully set out in the record. When the commission commenced its official services under the act of 1927 and undertook to bring order out of the chaos then prevailing in broadcasting it decided that the public convenience, interest, and necessity required that not more than 40 of the 90 available broadcasting frequency channels should be maintained as cleared channels for the exclusive use of the high-powered national broadcasting stations, and that the remaining 50 channels should be reserved for regional and local broadcasting. Accordingly, under the Davis amendment of March 28, 1928, the commission divided the 40 cleared channels equally among the 5 broadcasting zones, allocating 8 to each zone. In making this allocation the commission assigned the frequency of 790 kilocycles to station KGO, Oakland, Calif., as a cleared channel for use by it without time limitation, and assigned the same frequency to station WGY, but forbidding its use by the latter in the evening hours after sunset at station KGO. It is contended in support of this allocation that it is an essential part of a general system for the regulation of broadcasting throughout the country; that the system was adopted after thorough investigation of the situation, with the aid of competent radio engineers; and that the granting of a frequency of 790 kilocycles to WGY without time limitation would destroy the system as a whole, thereby producing great confusion. It is argued also that such an order would have the result of giving the first zone 9 cleared full-time channels instead of 8, which is the number allocated to each of the other zones.

We have but little information concerning station KGO except that it operates on a power of 10,000 watts and that it also is owned by the General Electric Co. It must be assumed that WGY, operating in the evening with a power of 50,000 watts, would at certain distances interfere with the broadcasting of KGO with its smaller power. It does not appear, however, that this interference would compare in point of public inconvenience with that resulting from the silencing of WGY after sunset at Oakland, nor that full-time operation in the evening by WGY with 790 kilocycles would seriously impair the general scheme of allocations otherwise adopted by the commission. We are convinced that the public interest would be enhanced by granting full time to the latter station.

It is the judgment of this court, therefore, that the appellant, the General Electric Co., was on November 11, 1928, and is now, entitled to receive from the Federal Radio Commission a renewal of its license

to operate station WGY upon the same terms as those contained in the license dated November 1, 1928, to wit, upon 790 kilocycles with power of 50 kilowatts and without time limit for operation; and this cause is remanded to the Federal Radio Commission to carry this judgment into effect. Costs assessed against appellee.

GEORGE E. MARTIN,
Chief Justice Court of Appeals of the District of Columbia.

(Indorsed: Nos. 4870, 4871, and 4880. The General Electric Co., appellant, *v.* Federal Radio Commission; The People of the State of New York, appellants, *v.* Federal Radio Commission; The General Electric Co., appellant, *v.* Federal Radio Commission. Opinion of the court per Mr. Chief Justice Martin, Court of Appeals, District of Columbia. Filed February 25, 1929. Henry W. Hodges, clerk.)

A true copy.

Test:

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

STATEMENT BY LOUIS G. CALDWELL, FORMERLY GENERAL COUNSEL FOR THE FEDERAL RADIO COMMISSION

The news which I have just received that the Court of Appeals for the District of Columbia has rendered a decision on the case pending before it on appeal by the General Electric Co. takes me completely by surprise. We have now in the hands of the printer an extensive brief on the merits of the case which, under the rules of the court, is due on February 28. My assistants and myself have worked arduously in the preparation of this brief because of the importance of the issues to the future of the regulation of radio communication by the Government of the United States.

I am at a loss to understand why we were not given an opportunity to answer the General Electric Co.'s brief on the merits, which was filed on February 8. It will be remembered that this case began with the filing of an appeal on November 9, 1928, by the General Electric Co. at a time when I was absent and engaged in the argument of a case for the commission in Chicago. On less than two hours' notice to the commission the General Electric Co. obtained a stay order from the court, and the court set the case for hearing on December 3, an unusually early date in view of the importance of the proceeding. This, however, was acceptable to the commission and to myself. Both the attorneys for the General Electric Co. and myself filed briefs with the court just prior to the oral argument, neither side having seen the other's brief.

Thereafter, on December 13, pursuant to leave given by the court, the General Electric Co. filed a brief in answer to what was said in our brief in support of certain motions we made, including a motion to dismiss the appeal. On December 23 we filed a reply to this brief on the motions. After extensive conferences between opposing counsel and ourselves a printed record was prepared and filed on January 10, and pursuant to the rules of the court the appellant filed its regular brief on the merits on February 8. The rules of the court (No. 8, sec. 4) provide:

"For the appellee there shall be filed with the clerk 15 copies of the brief for his side of the case within 20 days from the filing of appellant's brief."

We have never had an opportunity to answer either appellant's brief of February 8 or the brief which it filed just before oral argument on December 3.

The brief which we have in the printer's hands contains arguments and authorities which we believe to be absolutely essential to a proper understanding of the points involved in the case.

The opinion, which I have only just had an opportunity to read, holds that WGY is entitled to full-time operation with 50,000 watts power on the frequency of 790 kilocycles. This frequency or channel was assigned by General Order 40 to the fifth zone to be used by the General Electric Co. Station KGO at Oakland, Calif. Although the court does not say so, this decision necessarily holds that General Order 40 is invalid to the extent that it assigns this channel to the fifth zone, and, if both KGO and WGY are to continue to operate on it, the channel ceases to be a cleared channel, with the result that all the listening public outside of a comparatively small area around either station will have reception spoiled for them by a heterodyne whistle. It also means that the equalization which the commission so carefully worked out between the five zones has been destroyed as between the first and fifth zones with respect to cleared channels. Just what effect, if any, the decision will have on the other portion of General Order 40, it is too early to say.

While the court does not do so directly, by implication it seems to uphold the commission's contention that WGY has no property right, and Judge Wilkerson's decision against the claim of a property right in the WCRW case in Chicago is cited. The court of appeals places its emphasis on the standard of "public interest, convenience, or necessity" and rules that under the standard WGY is entitled to full time.

From a hasty reading of the opinion I gather the following:

(1) The court did not pass on our motions to dismiss each of the three appeals. These motions were based on the grounds, among others, that the appeals were not filed within the 20-day period prescribed by the statute, and that the questions involved are now all moot questions. This latter point is based on the fact that the commission can not, under the amendment passed in 1928, issue more than three months' licenses, and, therefore, if the commission had granted the utmost to the General Electric Co., it would have granted a license beginning November 11, 1928, and ending February 11, 1929.

2. The court did not rule on our motion to strike a large portion of the appeal papers filed by appellant, on the ground that they were improperly used as a method of introducing evidence into the record. By implication the court seems to have overruled this motion as it cites as facts material which is contained only in the document which we moved to strike.

3. The court did not pass on our motion to require the appellant to elect between the two appeals of the General Electric Co.

4. The court did not pass on our motion to dismiss the appeal of the State of New York on the ground that the statute does not give any right of appeal to persons other than those whose applications are denied by the commission.

5. The court seems to assume that under the statute the commission has authority to grant licenses for three years to broadcasting stations whereas under the amendment of 1928 its authority is limited to three months.

6. The court did not take any notice of the actual arrangement which was offered to WGY, namely, that it might operate every evening until 10 p. m., on condition that KGO at Oakland, Calif., close down for a period of 51 minutes daily just prior to 7 p. m.

7. The court assumes that under the commission's ruling WGY had to close down every evening at the hour of sunset at Oakland, Calif.

8. The court did not discuss our contention that WGY had every opportunity for a hearing and rejected it.

9. The court, by holding that WGY is now entitled to a full-time license on 790 kilocycles is necessarily ruling that the commission has no right to pass on whether each renewal of license of every three months will serve public interest.

10. The court, by ruling positively that WGY is entitled to 50,000 watts power, is by implication holding invalid the part of General Order 42 which limits power to 25,000 watts on cleared channels, with an additional 25,000 watts experimentally, to determine whether there is interference.

11. The court has made its ruling so far as facts are concerned entirely on the basis of an ex parte statement furnished by appellant, a large portion of which is in the form of an affidavit by one of its lawyers, and according to our contention improperly a part of the record.

Needless to say, we shall move immediately for a rehearing and if that is not successful shall take such measures as are open to us to obtain a review by the Supreme Court of the United States.

Mr. DILL. Mr. President, at an earlier hour in the day I meant to say something about the decision of the Court of Appeals of the District of Columbia sustaining the complaint of the radio station of the General Electric Co. at Schenectady, WGY, against the Radio Commission. The Senator from Missouri [Mr. REED] then had the floor and wanted to talk about the Vare case, and therefore I did not attempt to make any statement at that time. I desire now to call attention to the way in which the District Court of Appeals has handled this case.

In the first place, the temporary injunction which was issued by the court of appeals was issued on less than two hours' notice by the opposing counsel when the chief counsel of the Radio Commission was in Chicago arguing another case. The first briefs in the case for oral argument were filed December 1 by the commission on December 3 by the General Electric Co. The reply briefs on the motion were filed December 13 by the commission and December 22 by WGY, and the commission's answer on December 22. The printed record in this case was not filed until January 10, 1929. Under the rules WGY had 30 days in which to file its brief on the merits, and it filed its brief on February 8. The commission then had 20 days in which to file its reply brief; and the counsel of the commission had prepared its brief on the merits, and it is now being printed by the Government Printing Office. This morning the District Court of Appeals, without waiting for the filing of the brief of the commission's counsel, decided the case and overruled the commission's action.

Mr. BRATTON. Mr. President, will the Senator yield?

Mr. DILL. I yield.

Mr. BRATTON. Do I understand that the court decided the case without any brief on behalf of the commission being before the court?

Mr. DILL. It decided it before having any brief on the statement of facts as agreed upon. There were briefs upon the motions made by the commission, and a brief had been filed by the General Electric Co. on the statement of facts which was filed on January 10, and the commission had 20 days from February 8 in which to file its reply brief or its brief on the

merits. That period of 20 days would not expire until the 28th of February.

Counsel for the commission tells me that the brief is now being printed by the Government Printing Office, and that it would have been available and ready to file in two or three days; but the court, without waiting for the brief of counsel for the commission, proceeded to give its decision this morning.

Mr. BRATTON. Does the Senator know of any reason for such seemingly undue haste?

Mr. DILL. None except that the court has disregarded counsel for the commission at practically all times. Its treatment of the counsel for the commission at the time of the oral argument was discourteous, to say the least, and was such that I seriously thought of discussing that treatment here in the Senate, and then I decided to say nothing about it. The action of the court in granting this order to override the commission's ruling on two hours' notice, knowing that counsel was in Chicago, was another action on the part of the court that I think was prejudicial.

The District Court of Appeals decided this case on the basis of the public interest, convenience, and necessity, and failed to pass directly on the question which counsel for the General Electric Co., Mr. Hughes and Mr. Hogan, made so much of, namely, the property right in the wave length that had been obtained by the use of that wave length by WGY. The opinion indicates that the court is opposed to that contention. The opinion disregards the fact that the present law grants only a 3-months license. In fact, it cites the fact that the time for licenses is three years, and then proceeds as a matter of finding of fact to declare that the commission is in error and that WGY is entitled to this cleared channel for 24 hours a day, and in that way overrides the commission's order in accordance with the Davis amendment to equalize the channels in the various zones and gives the first zone nine channels instead of eight channels, as had been agreed upon.

Of course, this case will probably go to the Supreme Court of the United States. I think it can be taken there on a writ of certiorari. In case it does, there probably will not be so much damage done; but this action on the part of the District Court of Appeals is such that that court, the appeal body of the commission, will probably be called upon to override every action on the part of the commission to which anyone has objection.

I want to say further that while the General Electric Co. makes this appeal on its own behalf it is not only its rights that are involved, because the General Electric Co. is a part of the great $3,000,000,000 combination known as the Radio Trust. In that trust are the American Telephone & Telegraph Co., the General Electric Co., the Westinghouse Co., the United Fruit Co., the Radio Corporation of America, and the National Broadcasting Co. The case is thus one of the cases that really are being brought by that combination of corporations. Owen D. Young, who is chairman of the General Electric Co., is also chairman of the board of the Radio Corporation of America, and is the directing genius of the entire monopoly.

I just want to say again that I do not know of any case of a legal nature where counsel has been treated with as little courtesy, and his rights have been overridden as completely, as they have been in this case by the District Court of Appeals. I think it is evidence that the court was so impressed by the very appearance of former Justice Hughes, of the Supreme Court of the United States, and Mr. Hogan, that they did not even consider the arguments raised by counsel on the other side.

Mr. President, I have here, in the United States Daily of February 25, a statement by Mr. Louis G. Caldwell, attorney for the Radio Commission, which is a review of legislation by States and municipalities regulating radio transmission. I should like to have that statement inserted in the RECORD at this point in my remarks.

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

The matter referred to is as follows:

[From the United States Daily of Monday, February 25, 1929]

LEGISLATION BY STATES AND MUNICIPALITIES TO REGULATE RADIO TRANSMISSION REVIEWED—EXTENT OF RIGHT OF CONTROL NOT DETERMINED, SAYS GENERAL COUNSEL OF FEDERAL COMMISSION

Only three States, Maine, Michigan, and Nevada, have enacted laws to regulate and prevent interference with radio reception, according to a nation-wide survey made by the Federal Radio Commission's legal division.

Two States, Michigan and Nevada, have laws placing jurisdiction over broadcasting in the State public utilities commissions. Illinois has a statute with particular reference to slander over the radio.

Thirteen cities, the survey shows, have adopted ordinances to prevent interference with radio reception. There is no information that any county authorities have attempted to regulate.

In a statement accompanying the Digest of Radio Regulation, State and Municipal, Louis G. Caldwell, general counsel of the commission, states that one problem of radio jurisprudence is the extent to which States and cities within States have the right to legislate on the subject.

The full text of the summary of Mr. Caldwell's statement follows:

"One of the most interesting and difficult problems of radio jurisprudence is the extent to which States and cities within States have the right to legislate on the subject.

"The digest we have made of State laws and ordinances which have already come to our attention reveals that the extent and variety of the methods already employed to suppress interference, restrict the location of broadcasting stations, do away with the nuisance of loud speakers in public places and at late hours, and so on, is already very great. Some States have already gone so far as to class broadcasting stations as public utilities and attempt to regulate them as such.

"So far as I am aware only one case has been decided by a court on any statute or ordinance falling within this class. This is the case of Whitehurst *v.* Grimes (21 Fed. 2, 787), a decision by the District Court of the Eastern District of Kentucky in 1927, in which an ordinance attempting to license radio stations was held unconstitutional on the ground that 'radio communications are all interstate.'

"The inevitable conflict between the power of Congress to regulate interstate commerce and the police power of the State to promote the welfare of its citizens is present in such statutes and ordinances. Where the line is to be drawn is impossible to foresee.

"As a result of my examination of the material already collected, I am convinced that some of the statutes and ordinances are clearly unconstitutional while others are legitimate exercises of the States' police power.

"I earnestly recommend that before any State legislature or city council passes an enactment concerning radio it give the matter careful study, both so that any unnecessary conflict between State and Federal Government may be avoided, and so also that the results of the experience and study of others be at hand before any hasty steps are taken.

COURT CONSIDERS RADIO AS INTERSTATE TRAFFIC

"For the purpose of being of assistance to such States and cities as may desire it our legal division has made a summary of material so far gathered which will be sent to any State or municipal corporation desiring it. In turn, so that we may be in the best position to be of such assistance, we request that we be advised of any statute or ordinance which has already been passed, or which is proposed, or which may be enacted in the future. We shall be glad to offer suggestions to those that submit ordinances to us.

"The following States have enacted laws to regulate and prevent interference with radio reception, viz: Maine (see ch. 215, Public Laws of 1927), Michigan (see act No. 131 of the Public Acts of 1927), Nevada (see ch. 28, Statutes of Nevada, 1928).

"The Michigan and Nevada statutes provide for regulation by the public service commissions through orders, rules, and regulations promulgated by them. In addition, Illinois has a statute with particular reference to slander by radio.

"So far as we have any information, the following municipalities have adopted ordinances to prevent interference with radio reception: Spokane, Wash., ordinance No. C4237; Portland, Oreg., ordinance No. 51269; Minneapolis, Minn., Section VII (a) and (b), radio ordinance, adopted February 11, 1927; Antigo, Ashland, Marshfield, Stevens Point, Waupaca, and Wausau, all in Wisconsin; Iron River, Mich.; Atchison, Kans.; Lincoln, Nebr.; Boonville, N. Y.

"The operation of certain instruments, devices, and machines, the operation of which would cause electrical interference with radio reception between certain hours is prohibited by these ordinances. Some of the ordinances are general and certain of them specifically mention X-ray and violet-ray machines, vibratory chargers, machines using the Tesla coil or principles, and open and quenched spark machines.

"Minneapolis, Minn., has an ordinance forbidding the operation of broadcasting stations of more than 500 watts' power within the city limits and prescribing the distance outside the city limits within which station of higher power may operate. This ordinance also provides for licensing stations and fixing time schedule of operations.

"So far as we have any information, Detroit, Mich., and Oakland, Calif., have ordinances to regulate the operation of loud speakers so as to prevent annoyance and disturbances of those who live within the neighborhood.

"So far as we have any information, the following municipalities have adopted ordinances to regulate the installation of receiving and transmitting apparatus and antenna systems: Washington, D. C., Berkeley, Calif., St. Louis, Mo., Flint, Mich.

"The Nevada Public Service Commission act (ch. 28, Statutes of Nevada, 1928), above referred to, authorizes the commission to make rules and regulations generally with respect to the installation of transmitting and receiving instruments and antenna systems.

"The University of Wisconsin, university extension division, municipal information bureau, Madison, Wis., has published a bulletin on Municipal Radio Interference Ordinances, by Ford H. MacGregor. This bulletin is information report No. 69, and the price is 25 cents.

"Two reports are now available on the regulation of radio installation, and ordinances are now being collected with respect to interference with radio reception to be compiled in a future report by W. P. Capes, executive secretary, conference of mayors, City Hall, Albany, N. Y.

"We have no information that any county authorities have attempted to in any way regulate radio transmission or reception."

Mr. DILL. I may say further that the fact that this case has been decided as it has, and that it will probably go to the Supreme Court, makes it all the more imperative that Congress shall pass the bill to extend the life of the Radio Commission, which contains a provision authorizing the commission to hire attorneys at salaries that will enable the commission to secure counsel of sufficient experience and ability to present this case to the Supreme Court of the United States in the way that it should be presented. I hope that within a very few days the radio bill may be taken up and acted upon, because of its extreme importance.

Mr. HARRISON. Mr. President, will the Senator yield?

Mr. DILL. I yield.

Mr. HARRISON. What the Senator is now saying is of very great importance not only to the Senate but to the country. Will the Senator yield in order that I may make a point of no quorum, so that at least the steering committee of the majority side of the Senate can consider the words and suggestions of the Senator from Washington?

Mr. DILL. I yield.

Mr. HARRISON. I make the point of no quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

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

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

Mr. BLAINE. I desire to announce the unavoidable absence of my colleague [Mr. LA FOLLETTE]. I will let this anncuncement stand for the day.

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

Mr. BROOKHART. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Iowa?

Mr. DILL. What does the Senator desire?

Mr. BROOKHART. I desired the floor for 5 or 10 minutes.

Mr. DILL. I had the floor when I yielded for the call of a quorum.

Mr. BROOKHART. I did not understand the situation.

PUGET SOUND BRIDGE

Mr. JONES. Mr. President, I report favorably from the Committee on Commerce the bill (S. 5879) authorizing Llewellyn Evans, J. F. Hickey, and B. A. Lewis, their heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge and approaches thereto across Puget Sound, within the county of Pierce, State of Washington, at or near a point commonly known as the Narrows. I call the matter to the attention of my colleague.

Mr. DILL. I ask unanimous consent for the present consideration of this bill. It is for the construction of a bridge across one arm of Puget Sound and is in the usual form.

Mr. EDGE. It gives me pleasure to join in that request for unanimous consent.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That in order to promote interstate commerce, improve the postal service, and provide for military and other purposes, Llewellyn Evans, J. F. Hickey, and B. A. Lewis, hereinafter called the grantees, and their heirs, legal representatives, and assigns, be, and they are hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across Puget Sound, within the county of Pierce, State of Washington, at a point suitable to the interests of navigation, at or near a point commonly known as the Narrows, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act.

SEC. 2. After completion of such bridge, as determined by the Secretary of War, either the State of Washington, or any municipality or political subdivision thereof within or adjoining which any part of such bridge is located, or any two or more them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation in accordance with the laws of such State governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of five years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual cost of acquiring such interest in real property; (3) actual financing and promotion cost, not to exceed 10 per cent of the sum of the cost of constructing the bridge and its approaches and acquiring such interest in real property; and (4) actual expenditures for necessary improvements, less a reasonable deduction for actual depreciation in value.

SEC. 3. If such bridge shall at any time be taken over or acquired by the State of Washington, or by any municipality or other political subdivision or public agency thereof, under the provisions of section 2 of this act, and if tolls are thereafter charged for the use thereof, the rates of tolls shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed 20 years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of tolls shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

SEC. 4. The grantees and their assigns shall, within 90 days after the completion of such bridge, file with the Secretary of War, and with the highway department of the State of Washington, a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of War may, and at the request of the highway department of the State of Washington shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge. For the purpose of such investigation the said grantees and their assigns shall make available all records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 2 of this act, subject only to review in a court of equity for fraud or gross mistake.

SEC. 5. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to the grantees and their assigns; and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

SEC. 6. All contracts made in connection with the construction of the bridge authorized by this act and which shall involve the expenditure of more than $5,000, shall be let by competitive bidding. Such contracts shall be advertised for a reasonable time in some newspaper of general circulation published in the State in which the bridge is located and in the vicinity thereof; sealed bids shall be required and the contracts shall be awarded to the lowest responsible bidder. Verified copies or abstracts of all bids received and of the bid or bids accepted shall be promptly furnished to the highway department of the State in which such bridge is located. A failure to comply in good faith with

the provisions of this section shall render null and void any contract made in violation thereof, and the Secretary of War may, after hearings, order the suspension of all work upon such bridge until the provisions of this section shall have been fully complied with.

SEC. 7. The right to alter, amend, or repeal this act is hereby expressly reserved.

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

RETIREMENT OF MEMBERS OF THE LIFE-SAVING SERVICE

Mr. JONES. Mr. President, quite a number of years ago the Senate passed a bill, I think possibly twice, to pension life-savers who were disabled in the line of duty. The bill neither time passed the other body, but I think it was in 1915 that the House passed a bill providing that the Life Saving Service should be a part of the Coast Guard, and that that should be a part of the Military Establishment, so that whenever a member of that service was injured permanently he retired at three-fourths of his pay.

It is felt that those who were permanently injured prior to that time, and who are still living, are justly entitled to be put on the same basis with those who are in the service now. A bill has passed the House, I think unanimously, providing for this, and this morning the Committee on Commerce unanimously directed me to report the bill favorably.

I, therefore, report, from the Committee on Commerce, the bill (H. R. 16656) providing for retired pay for certain members of the former Life Saving Service, equivalent to retired pay granted to members of the Coast Guard. I ask for the immediate consideration of the bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate as in Committee of the Whole proceeded to consider the bill, which was read, as follows:

Be it enacted etc., That any individual who served in the former Life Saving Service of the United States as a keeper or surfman, and who on account of being so disabled by reason of a wound or injury received or disease contracted in such service in line of duty as to unfit him for the performance of duty was continued upon the rolls of the service for an aggregate period of one year or more under the provisions of section 7 of the act entitled "An act to promote the efficiency of the Life Saving Service and to encourage the saving of life from shipwreck," approved May 4, 1882, and who ceased to be a member of such service on account of such disability, which disability still continues at the time of the enactment of this act, shall, upon making due proof of such facts in accordance with such rules and regulations as the Secretary of the Treasury may prescribe, be entitled to retired pay from the date of the enactment of this act at the rate of 75 per cent of the pay he was receiving at the time of his separation from such service. No such individual shall receive a pension under any other law of the United States for the same period for which he receives retired pay under the provisions of this act.

SEC. 2. No agent, attorney, or other person engaged in preparing, presenting, or prosecuting any claim under the provisions of this act shall, directly or indirectly, contract for, demand, receive, or retain for such services in preparing, presenting, or prosecuting such claim a sum greater than $10, which sum shall be payable only on the order of the Secretary of the Treasury; and any person who shall violate any of the provisions of this section, or shall wrongfully withhold from the claimant the whole or any part of retired pay allowed or due such claimant under this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall, for each and every offense, be fined not exceeding $500 or be imprisoned not exceeding one year, or both, in the discretion of the court.

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

THE RADIO COMMISSION

Mr. HARRISON. Mr. President, just before the quorum call was made the Senator from Washington, who has taken a great deal of interest in the work of the Radio Commission and legislation affecting the continuation of the Radio Commission, was addressing the Senate on that subject. Some of us thought that there ought to be more Senators in the Chamber when he was making his very wise suggestions.

I now see in the Chamber the chairman of the Committee on Interstate Commerce [Mr. WATSON], and I hope the Senator from Washington will bring the matter again to the attention of the Senator, so that we can ascertain where we are going to get with reference to that legislation. It seems to me that is one of the pieces of legislation which ought to pass; and when the Senate is for it and it is necessary, it seems to me that the steering committee ought to put the measure in such a position on the program that it may be passed.

Mr. DILL. Mr. President, at the time the Senator made the point of no quorum I had just explained the action of the District Court of Appeals in overruling the commission in the case of the General Electric Co. I had pointed out the fact that it was very important, in the light of that decision, especially, that the legislation now pending before the Senate should be enacted before adjournment, for two reasons: In the first place, that legislation authorizes the commission to employ attorneys at salaries sufficient to secure legal talent of the order and standing needed to present its cases properly. Secondly, because it is highly important that the limitation of licenses to 90 days for broadcasting stations and to one year for other classes of stations, which will expire in March of this year, shall be continued.

I hope the chairman of the Committee on Interstate Commerce, the Senator from Indiana [Mr. WATSON], may be able to get the Radio Commission bill before the Senate at some time in the near future in order that we may have some consideration of it, and pass it if possible.

Mr. WATSON. Mr. President, I will say to the Senator, if he will yield to me, that I am sure he is fully aware of the situation. The Senator from New York [Mr. COPELAND] is the Senator who objected the other night and kept the Senate here until pretty nearly 11 o'clock. I have been trying to reach some sort of an agreement with him about the matter.

My own view now is that it will be necessary to make the radio bill the unfinished business of the Senate, and then apply cloture, if we can not do anything else in order to pass it. This bill must be passed, because if it is not passed the entire radio situation in America will be thrust into a chaotic condition which will not be justified, and for which the Senate of the United States alone will be censurable.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. DILL. I yield.

Mr. COPELAND. We had a meeting the other night, we were in session two hours, and my good friend the Senator from Washington [Mr. DILL] was on his feet an hour and a half. I had the floor something over 30 minutes, and half of that time at least was taken up by comments of members of the Committee on Interstate Commerce. So I think it is hardly fair for the Senator from Indiana, who is usually so just, to say that through any efforts of mine the Senate has failed to be advised regarding the many aspects of this case. I am perfectly willing, glad, indeed, to discuss with the Senator from Indiana or with anybody else interested the other side of this case.

I do not want to see the Senate of the United States continue a sort of arrangement which is universally unsatisfactory, continue a commission which has finished its administrative work, and, in so far as it could be done, has done it well, exceedingly well. This administrative work, as the Senator from Indiana himself said the other night, is a thing which in four months' time could be taken over by the Department of Commerce and dealt with in a scientific and proper way. I am willing to concede four months or six months, any period which will be ample time for the Department of Commerce to arrange its affairs to take over the purely administrative part of the work.

Mr. DILL. I call the Senator's attention to the fact that this decision of the District of Columbia Court of Appeals practically wipes out General Order No. 40, which provided for the allocation of the broadcasting wave lengths. This may compel the commission to reorganize the entire broadcasting allocation plan.

Mr. COPELAND. I agree perfectly with the Senator from Washington; it has created new problems, most of them legal in their nature. I want to see the commission given the proper legal aid, and to be permitted to devote itself to the legal aspects of the case. That decision makes it more important than ever that most of the provisions of the bill which is presented here, particularly that section which provides for legal talent, should be passed. Further than that, the commission should be able to devote its time to the legal aspects of the problem which will be increasingly complicated.

That is exactly why I am opposing the measure as it is presented here. I want the commission to be relieved of administrative duties, in order that it may deal in a large way with the judicial side of its work.

Mr. DILL. Mr. President, I will not take more time on this subject, because of the fact that the Nicaraguan canal resolution is pending, and I have some remarks I want to make on that subject.

Mr. COPELAND. Mr. President, will the Senator yield further to me.

Mr. DILL. I yield.

Mr. COPELAND. If the Senator from Indiana will modify the first paragraph of his bill, fixing a time, four months off, or

six months off, or some definite time, for the commission to turn over the administrative side of the work to the Department of Commerce, so that it may devote itself to the judicial side, we can pass the bill in five minutes, as far as I am concerned.

Mr. WATSON. Mr. President, I have no right to the floor except by courtesy of the Senator from Washington——

Mr. DILL. I yield to the Senator.

Mr. NEELY. Mr. President, will the Senator from Indiana yield?

Mr. WATSON. I yield to the Senator.

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from West Virginia?

Mr. DILL. I yield.

Mr. NEELY. Mr. President, if the able Senator from Indiana [Mr. WATSON] should modify his bill agreeably with the suggestion of the Senator from New York, many other Members of the Senate would oppose its passage.

In my opinion, the Radio Commission ought not to be stripped of any of its powers.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. DILL. I yield.

Mr. COPELAND. So far as I am concerned I do not believe in abolishing the commission. The law as it originally passed provided that the commission, as an administrative body, should be continued for one year. Last year we continued it for another year to do those detailed things which should be done. Now, it will be better, in my judgment, to leave the commission free to do the large things of which the Senator speaks. It does not propose the abolition of the commission. No matter whether the view of the Senator from Indiana [Mr. WATSON] should prevail or my view should prevail, the commission continues to exist as an appellate body and it would have ultimate jurisdiction in all cases coming before either the Department of Commerce or the Radio Commission itself.

Mr. NEELY. Mr. President, will the Senator yield further?

Mr. DILL. I yield.

Mr. NEELY. Mr. President, I shall resist to the limit of my capacity any effort that may be made to rob the radio commission of any of its jurisdiction or transfer any of its functions to the Department of Commerce.

Mr. WATSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Indiana?

Mr. DILL. I yield.

Mr. WATSON. The bill provides that the life of the commission shall be extended one year. If it fails of passage, it casts the whole service into the Department of Commerce, which is in no wise prepared to receive it and administer it.

The Senator is willing to postpone action for nine months. The bill provides postponement for one year. On that little difference of three months he is willing to hold up the passage of the bill—just on that slight difference of three months! My contention is that even if we intended to abolish the commission and not permit it to have charge of the operation of radio any longer, it would take a full year for the Department of Commerce to organize and equip itself successfully to take hold of it.

We had full hearings on the matter in the Committee on Commerce, I will say to the Senator from New York. We talked with the members of the committee on the House side, who were thoroughly informed of the situation, and we agreed on this bill and introduced identical bills on the same day. In my judgment, it would work not destruction, indeed, because we can not destroy this great industry, but disaster to the industry for months to come if the bill does not pass in its present form. So far as I am concerned, I shall not be willing to make any kind of compromise, and we shall either win for the bill or lose it altogether.

Mr. HARRISON. Mr. President, will the Senator yield?

Mr. DILL. I yield.

Mr. HARRISON. As I understand it, the radio commission goes out of existence on the 23d of March unless we continue it at this session of Congress?

Mr. WATSON. It still remains in existence under the law, but wholly as an appellate body. Its original administrative jurisdiction is lost altogether.

Mr. DILL. Mr. President, I think I shall have to bring this discussion to a close, because I want to discuss the Nicaraguan canal situation before 4 o'clock, and unless we do bring the discussion of the radio question to a close it will go on all afternoon.

PROPOSED NICARAGUAN CANAL

The Senate resumed the consideration of the joint resolution (S. J. Res. 117) authorizing an investigation and survey for a Nicaraguan canal.

Mr. DILL. Mr. President, on Saturday last I discussed the Nicaraguan canal resolution at some length from the viewpoint of the objections to our longer keeping our forces of marines in Nicaragua, and also from the standpoint of not needing the canal at this time and the proposed investigation not being necessary. I want now to talk for a few moments about the needs of the country for the expenditure of money for other purposes rather than for a Nicaraguan canal.

On looking through the RECORD I was amazed at the information placed in it from authoritative sources—authoritative sources which even the Senator from New Jersey [Mr. EDGE] did not dispute and can not dispute—to the effect that 19 ships every day are now passing through the Panama Canal on an average and that the capacity of the canal is 54 ships a day. In addition to that is the statement that when the new water supply has been provided one additional lock in the Panama Canal will make it unnecessary for any new additional canal facilities for 70 years to come. These statements are undisputed and come from men in charge of the Panama Canal. Yet the Senator from New Jersey proposes to go ahead now with his joint resolution to investigate routes in Nicaragua, and by his own consent there has been stricken out all reference to the report of 1901, which the Senator from Ohio [Mr. BURTON] showed was highly colored largely for the purpose of inducing the Panama Canal people to sell their route in Panama at a lower rate.

The Senator from Ohio was careful in his statements, but the only implication that can be drawn is that the extremely favorable report on Nicaragua was made for the purpose of beating down the price of the Panama route. So the Senator from New Jersey struck out all reference to that report, and now the commission of engineers is to go to Nicaragua and study this route and make such reports as they may see fit, and $150,000 is only a drop in the bucket compared to the total amount of money that we will spend before we have completed the investigations for a canal that admittedly will not be needed until 60 or 70 years from now—all that and the attendant troubles that will come from having the marines kept down there to protect those engineers.

Mr. EDGE. Mr. President, will the Senator yield?

Mr. DILL. I yield.

Mr. EDGE. I think the Senator is mistaken as to the purport of the suggestion of the Senator from Ohio. The Senator from Ohio did not want the commission of engineers to be confined to the one report of the Isthmian Commission transmitted in 1901. In other words, he had, as the Senator suggests, some question as to their findings, because they were particularly favorable to the Nicaraguan canal, but there were other reports, and he simply asked that the joint resolution include those reports as well as the report which might be termed, though I shall not term it so, a one-sided report. The only change in the resolution is to give the engineers the benefit of the other reports.

Mr. DILL. It enlarges the duties of the engineers then to the entire Isthmian area and not merely to Nicaragua.

Mr. EDGE. On the contrary it gives them that much additional information.

Mr. DILL. On the contrary, too, the Senator from Ohio specifically talked about the San Blas route as being the only favorable route.

But I want to call attention to some of the pending legislation asking for money from the Treasury of the United States for purposes of development in the United States. It is almost unbelievable that the amount of money needed is so great as it is. I want to speak first of the waterway question. The Senator from South Dakota [Mr. MCMASTER] spoke of the great need for the development of waterways in the middle western country. I want to call attention—and I shall not take the time to analyze each of them—to the various amounts of money that are needed for pressing constructive purposes.

There is a great deal of agitation in the country for the building of the St. Lawrence canal. For the building of that canal down the St. Lawrence River it is estimated that it will cost $425,000,000. If we build it through the State of New York it is estimated it will cost $600,000,000. That canal is of exceedingly great importance to the producers of farm products all through the middle western country, reaching even into the far Northwest, where I live.

Then we have the Mississippi flood-control legislation, with $325,000,000 already authorized to be expended in the next few years, and the estimates show at least $400,000,000 or $500,000,000 additional will be necessary before the flood-control work can be finished.

Then we have the Illinois River additional locks, $3,500,000; the canalization of the Ohio River from Pittsburgh to Cairo,

$110,000,000; the Mississippi barge line, which is asking $10,000,000 for new barges; intercoastal waterways on the Atlantic coast from Norfolk to Cape Fear along the Florida coast, $20,000,000; waterway from New Orleans to Corpus Christi, $14,000,000; a total of $1,150,000,000 for just these outstanding waterways which are needed in the country to-day.

We were told at the beginning of this session that we must limit appropriations or the Treasury would show a deficit.

Mr. WALSH of Massachusetts. Mr. President, the Senator failed to include the widening and enlargement of the Cape Cod Canal, for which a request is made of many million dollars.

Mr. DILL. How many millions?

Mr. WALSH of Massachusetts. At least $20,000,000.

Mr. DILL. I thank the Senator for the suggestion. Of course, I have omitted a great many other pressing requests for rivers and harbors throughout the country that are natural, but these are the exceedingly large amounts which will come in addition to the ordinary expenditures for the rivers and harbors of the country, more than $1,000,000,000.

Who will say that it is more important to spend money to start an investigation and look to the beginning of work in the building of a canal in Nicaragua, for which there will be no need for from 60 to 70 years, according to the undisputed testimony of the men who know what they are talking about—who will say that it is more necessary and desirable than the appropriation of money to build some of these great waterway projects?

Not only the waterways but we have Boulder Dam, for which an authorization of $165,000,000 has been made that must be spent out of the Treasury. As I said a moment ago, the Secretary of the Treasury told us in the beginning of this session that if there were particularly large additional drains on the Treasury there would be a deficit. The new administration about to be ushered in will be confronted with a tremendous number of demands for new projects in the country. The President elect has pledged himself to the country to build many of those new projects. Now the Senator from New Jersey comes here with a proposal to begin the investigation of another canal that will cost from $1,000,000,000 to $1,500,000,000 before it can be made a sea-level canal, and there is no use to build any other kind of a canal down there. Any other kind of a canal would be just as subject to destruction by an enemy force as the Panama Canal is said to be now.

Then we have the Columbia River Basin project in my own part of the country which will cost $250,000,000 to $300,000,000. Only the other day the House of Representatives refused to vote a few thousand dollars to investigate further that project, because they said it was another step toward the expending of money and that the time had come to keep down expenditures for that purpose.

With more than a billion dollars of funds needed to build great waterway projects, the Senator from New Jersey comes here with his joint resolution and gets the steering committee to place it ahead of all the other legislation in the Senate. That joint resolution provides for the making of an investigation for the building of a canal that will cost another $1,000,000,000. I do not know what is the purpose of it other than, as I said the other day, that the Government may have some reason or some excuse for keeping the marines in Nicaragua.

Then there is the completion of reclamation projects that are already authorized in the country, amounting to nearly $100,000,000; the increased pension rate on pension claims now pending running to more than $150,000,000; the increase in expenditures for the Veterans' Bureau which annually run from $50,000,000 to $100,000,000; the purchase of privately owned lands in national parks $3,000,000; roads in the national parks, $5,000,000 annually; the civil service retirement bill, if passed, an annual charge of $10,000,000 for 30 years to come; the civil service salary increase bill with an average charge of $3,000,000 annually.

There is a bill on the Senate Calendar, the passage of which, I believe, is more urgently needed than that of almost any other kind of legislation to-day; that is, the bill to appropriate $50,000,000 for the improvement of the rural mail roads of the country. We have been spending millions and millions of dollars upon roads, but the money has been spent upon the big automobile highways. The farmers who live back in the country, away from the cities, off the main highways, where the rural mail roads go, receive no benefit directly by expenditures from the Treasury for such highways. The Senator from Tennessee has on the calendar a bill authorizing the expenditure of $50,000,000 to improve the roads that go back into the country districts, so that the farmers can get their mail if there happens to be a little bad weather, and the rural mail carrier will not be cut off from traveling the roads and carrying the mail to the people in the communities they are supposed to serve.

Then, we need a coast-to-coast highway. I have talked with the officials of the Bureau of Public Roads, and they told me it would cost $100,000 a mile—$300,000,000—to build such a coast-to-coast highway. I submit that it is far more important that we spend some money to investigate and secure a report about a coast-to-coast highway than it is to investigate and report about a canal that will not be needed for 60 or 70 years, and to build it in a foreign land at that. We need the highway now and should study the question now.

Scarcely any of these projects can be provided except by draining the Treasury to the point of a deficit, and if we are to undertake any considerable number of them, then we shall have to resort to some additional taxes upon the American people.

A great tariff bill is impending and will soon be before us. Everybody agrees that that tariff bill will increase the customs duties and if we shall increase the customs duties we shall thereby cut the revenue; we can not hope in that event for any additional revenue from the tariff. The increase in the income-tax collections, I care not how prosperous the country may be, will no more than take care of the natural increase in the expenditures of the Government. Yet with all of these great pressing needs of the country for money on every hand, the Senator from New Jersey is here with a joint resolution to investigate as to how we can spend a billion dollars in order to build a canal across a foreign country, when we shall not need such a canal for two generations, when he and I shall be gone and our children probably will be old men and women.

Then, farm-relief legislation will soon be upon us. We are told that it will require a revolving fund of from $300,000,000 to $500,000,000 a year. The President elect has said that he is not particular about the expense to the Treasury if such legislation will really help the farmers. So whatever surplus there may be in the Treasury will be more than taken for that purpose. Yet with that situation facing us, with the needs of our farmers so urgent as they are we are told that we should start an investigation in Nicaragua looking to the building of a canal down there some day.

I have received a great many letters about this canal question, because I have opposed the building of a canal. I have had people in the Northwest part of the country where I live telling me that they thought the canal ought to be built because it would help to carry commerce between the two coasts. They get that impression from statements such as the Senator from New Jersey is in the habit of making here that we shall need the canal in from 15 or 20 years. They get it from statements in the newspapers that the Nicaraguan canal will shorten the route a little bit. Then they wonder why any of us will stand here and fight proposed legislation that will lead to the expenditure of such an enormous sum of money that the taxes must be increased upon the people of the country.

Mr. EDGE. Mr. President, will the Senator from Washington yield to me?

Mr. DILL. I yield.

Mr. EDGE. I do not want to take time, but the Senator does not deny for one moment, does he, the statement made by the Senator from New Jersey and in the newspapers, or whatever the source may be, that it is cheaper to-day to carry products through the Panama Canal, which is 400 or 500 miles farther south than the proposed Nicaraguan canal, than it is to transport them by rail?

Mr. DILL. Absolutely; and because it is cheaper, and because that can be done, I do not see any sense in burdening the Treasury of the United States, increasing the taxes of the people to save a couple of days on the water. The fact of the matter is that the trade that goes via the Panama Canal can just as well require a day or two extra, and it will not be nearly the burden upon the people who ship the products as will the failure to provide for the needed projects in this country, and as will be the burden of increased taxation.

I want to remind the Senate of the fact that, while one may read in the newspapers of the great prosperity of this country, if he will go among the common people he will find that they are complaining bitterly about high taxes and are strongly opposed to any legislation that is going to increase their taxes. An administration that adds to the taxation burden of the common people will hear from them at the polls in no uncertain terms. Least of all can such increase be defended on a proposal such as this joint resolution makes to go down into Nicaragua and start investigating the route for a canal that will not need to be built for two or three generations from now.

So I say I do not understand, and never have been able to understand, why the Senator from New Jersey should be so persistent in his effort to secure the passage of the pending joint resolution. I do not know whether or not it is because he wants his committee to make a record of having actually

done something so that the committee will not be wiped off the list of Senate committees. I would rather think it were that than to think it was being done for the purpose of giving the administration an excuse to keep the marines in Nicaragua.

Mr. President, I was very much interested in the votes the other day in the Senate on the amendment calling for the withdrawal of the marines in Nicaragua. The first vote was a natural expression of the Senate; Senators voted the way they thought and felt before anybody had really talked to them or had threatened them with loss of naval improvements in their States, or before they had been told they were not standing by the administration, or something of that kind. I hold in my hand an editorial printed in the New York World of February 25, to-day, entitled "A Warning Upon Nicaragua." The editorial reads:

It was something closely resembling a rebuke which the Senate gave the administration in its vote on the question of forcing the marines out of Nicaragua. A year ago the Senators were overwhelmingly behind the President in his wish to keep a large force of marines there until after the elections. But on Friday they voted 38 to 30 to refuse any money for the maintenance of a Nicaraguan force after next June. Senators BORAH and CAPPER were among those who wished to compel a withdrawal. Although this action was reversed on Saturday by 48 to 32, the moral effect of the original gesture remains. It required heavy pressure from Mr. Coolidge and Mr. Kellogg, together with the fear of various Senators that persistence in their stand would defeat the entire naval bill, to bring about this reversal. Mr. BORAH, head of the Foreign Relations Committee, stood his ground to the last.

I was very much interested in the vote of the Senator from Idaho [Mr. BORAH], and also the vote of the Senator from Virginia [Mr. SWANSON], because a year ago when a similar resolution was before this body they stated that when the election had been held and peace had been established in Nicaragua they would be in favor of withdrawing American marines from that country. I say to their credit that they stood true to their promise of a year ago and did not waver in their action here on Saturday.

The episode is a pointed warning that American public sentiment is eager to bring our Nicaraguan adventure to an end and will show increasing restiveness if a large body of marines is retained there longer. The Nicaraguan elections are over. We have been told again and again that the country is pacified. Yet there are still approximately 3,500 marines on Nicaraguan soil, with supporting naval forces. Secretary Kellogg points to our agreements to train the Nicaraguan National Guard, and says that as soon as this task is finished our force will be withdrawn. But to train an adequate constabulary requires nothing like 3,500 men; a skeleton force of officers ought under ordinary conditions to suffice for the job. So long as we maintain this army in Nicaragua the suspicion will persist that the country is by no means completely and permanently pacified, and that we are afraid to withdraw, or that our Government has some covert purpose in the matter. To satisfy home opinion and to reassure Latin America the evacuation should be completed with all possible speed.

So I say that if engineers are sent down and maintained on the Isthmus of Nicaragua there will be another excuse afforded the administration for keeping marines in that country.

I have digressed from the subject about which I was talking, namely, the need of money for projects in our own country. I hold in my hand a copy of the Waterways Bulletin published in St. Louis in February, 1929, and I hold in my hand also an article entitled "53,000 Farmers Speak—The Illinois Agricultural Association Urges a Great Waterway Program." Then the article goes on to describe the need of spending money to provide a Gulf-to-the-Lakes waterway. Such a waterway will cost hundreds of millions of dollars. It is not included in the list of projects which I read, the estimates for which amount to two and a half billion dollars. The lake to the waterway project is additional to that program. The farmers are asking, before we build another isthmian canal for the purpose of serving the two coasts in carrying commerce, that they be given a little money out of the Treasury in order to develop the inland waterways so that their goods may also be transported by water. But, in the face of these demands and these needs, the Senator from New Jersey is here with his joint resolution providing that we shall send engineers into Nicaragua and start another investigation of a canal route—a route which was abandoned years ago—merely in order that, having secured an agreement with Nicaragua in 1913, we may have some data as to a route on which a canal may be built some day if we shall so desire.

There are a great many other waterway developments discussed in this document, but I shall not now take the time to read them. I recognize that Senators generally look upon the pending joint resolution as not having much effect. The Senator from New Jersey says, "It only means spending $150,000, and we are just going to go down there in order to secure some reports so that 50 or 60 years from now when we get ready to build a canal the Government of that time may go back into history and find that once the great Senator from New Jersey was responsible for procuring information aid bringing it down to date."

I do not want to criticize the Senator's desire to bring about that result, and if that were the only purpose I would gladly vote for the passage of the joint resolution, but I know, as every other man knows who studies a subject of this kind, that this is but the first step, this is the opening wedge, looking to the spending of hundreds of millions of dollars for the purpose of building another waterway across the isthmus despite the fact that this country is in far greater need of expending that money for other purposes than for any international waterway.

Mr. President, I am not going to delay the Senate longer or take more time on the subject. I suppose that the Senate will vote to pass the joint resolution. I hope there will be enough opposition to it in the House to kill it there, and that by the time it comes up in another Congress Senators will be awake to what it means and that they will rise up in their might and destroy in the beginning a joint resolution that was conceived in the interest not of the American people but of a few who desire to exploit Nicaragua and who desire to keep American troops there in order that they may have protection while they exploit that land.

Mr. EDGE. Mr. President, on behalf of the Senator from Utah [Mr. KING], I desire to offer two amendments. The Senator from Utah is detained at a committee meeting and has authorized me to present the amendments as representing his viewpoint. I will say, before they are read, that I will accept both amendments to the joint resolution and thus perfect it.

The PRESIDING OFFICER. The amendments offered by the Senator from New Jersey on behalf of the Senator from Utah will be stated.

The CHIEF CLERK. It is proposed to amend the committee amendment on page 5, line 21, by adding, after the word "shipping," a comma and the words:

and to investigate any other practicable route between the Atlantic and Pacific Oceans.

The amendment to the amendment was agreed to.

The CHIEF CLERK. Also, on page 6, line 15, after an amendment already agreed to, after the name "Nicaraguan canal," it is proposed to insert:

or to authorize the President of the United States to enter into any agreement with the Government of Nicaragua, or of any of the countries herein named, which would commit or in any way obligate the United States to build said canal, or to acquire lands, easements, or other property for such purpose.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole, as amended.

The amendment made as in Committee of the Whole, as amended, was concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

CALLING OF THE ROLL

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

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

Mr. BLAINE. I desire to announce that my colleague [Mr. LA FOLLETTE] is unavoidably absent. I ask to have this announcement stand for the day.

Mr. BRATTON. My colleague [Mr. LARRAZOLO] is absent on account of illness. This announcement may stand throughout the day.

Mr. COPELAND. I desire to announce that my colleague [Mr. WAGNER] is detained by important business. 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.

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 concurrent resolution (S. Con. Res. 15) authorizing expenditures in connection with the consideration of the purchase by the Government of the rights to the use of the Harriman Geographic Code System.

The message also 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 House to the bill (S. 710) conferring jurisdiction upon the Court of Claims to hear, adjudicate, and render judgment in claims which the northwestern bands of Shoshone Indians may have against the United States.

The message further announced that the House had agreed to the amendment of the Senate to each of the following bills:

H. R. 8295. An act for the appointment of an additional circuit judge for the ninth judicial circuit; and

H. R. 16658. An act to amend sections 116, 118, and 126 of the Judicial Code, as amended, to divide the eighth judicial circuit of the United States, and to create a tenth judicial circuit.

The message also announced that the House had agreed to the amendments of the Senate to the following bills:

H. R. 4266. An act for the relief of certain officers and former officers of the Army of the United States, and for the settlement of individual claims approved by the War Department; and

H. R. 11360. An act to authorize the Secretary of the Interior to convey or transfer certain water rights in connection with the Boise reclamation project.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 14659) to provide for the appointment of two additional judges of the District Court of the United States for the Eastern District of New York; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GRAHAM, Mr. LAGUARDIA, and Mr. SUMNERS of Texas were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 16714) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1930, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. FRENCH, Mr. HARDY, Mr. TABER, Mr. AYRES, and Mr. OLIVER of Alabama were appointed managers on the part of the House at the conference.

The message further announced that the House had adopted the following concurrent resolution (H. Con. Res. 59), in which it requested the concurrence of the Senate:

Resolved by the House of Representatives (the Senate concurring), That during the remainder of the present session of Congress the engrossment and enrolling of bills and joint resolutions by printing, as provided by an act of Congress approved March 2, 1895, may be suspended, and said bills and joint resolution may be engrossed and enrolled by the most expeditious methods consistent with accuracy.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

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

H. R. 8551. An act to create an additional judge in the district of South Dakota;

H. R. 9200. An act to provide for the appointment of three additional judges of the District Court of the United States for the Southern District of New York;

H. R. 12811. An act to provide for the appointment of one additional district judge for the eastern and western districts of South Carolina; and

H. J. Res. 425. Joint resolution providing for an investigation of Francis A. Winslow, United States district judge for the southern district of New York.

ENGROSSMENT AND ENROLLMENT OF BILLS

Mr. JONES. Mr. President, usually near the close of the session we pass a concurrent resolution like the one we have just received from the House of Representatives. I ask for its present consideration.

The Presiding Officer laid before the Senate House Concurrent Resolution 59, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That during the remainder of the present session of Congress the engrossment and enrolling of bills and joint resolutions by printing, as provided by an act of Congress, approved March 2, 1895, may be suspended, and said bills and joint resolutions may be engrossed and enrolled by the most expeditious methods consistent with accuracy.

Mr. ROBINSON of Arkansas. This is the usual resolution?

Mr. JONES. I understand that it is the usual resolution submitted at the close of a session of Congress.

The concurrent resolution was considered by unanimous consent and agreed to.

NAVAL APPROPRIATIONS

The PRESIDING OFFICER (Mr. FESS in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 16714) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1930, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. HALE. I move that the Senate insist on its amendments, agree to the conference asked by the House and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HALE, Mr. PHIPPS, and Mr. SWANSON conferees on the part of the Senate.

ADDITIONAL JUDGES, EASTERN DISTRICT OF NEW YORK

The PRESIDING OFFICER (Mr. FESS in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 14659) to provide for the appointment of two additional judges of the District Court of the United States for the Eastern District of New York, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. NORRIS. I move that the Senate insist upon its amendments, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. BORAH, Mr. WATERMAN, and Mr. WALSH of Montana.

FARMERS' PRODUCE MARKET

Mr. GLASS. I ask unanimous consent that the Senate take up and make the unfinished business House bill 8298, being Order of Business No. 689, authorizing acquisition of a site for the farmers' produce market, and for other purposes.

Mr. BRUCE. Mr. President, my colleague [Mr TYDINGS] is not in the Chamber at this moment. So far as I am concerned, I have no objection to taking up the bill; but I should like the Senator from Virginia to wait until my colleague comes in. I have sent for him.

Mr. GLASS. I do not propose to wait on the absence of Senators. I put the Senator from Maryland upon notice that this is the next bill in order.

Mr. JOHNSON. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. Senators will please take their seats.

Mr. GLASS. Then, Mr. President, if there is to be objection to the request for unanimous consent, as seems to be the case, I move that the bill to which I have referred be taken up and made the unfinished business.

The PRESIDING OFFICER. The Senator from Virginia moves that the Senate proceed to the consideration of House bill 8298.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 8298) authorizing acquisition of a site for the farmers' produce market, and for other purposes.

WILLIAM H. CHAMBLISS

Mr. HEFLIN. Mr. President, a few days ago I had printed in the RECORD an affidavit on behalf of Captain Chambliss, a retired naval officer. He has given me some additional data which I wish to have printed in the RECORD in support of a measure that is pending here, Senate bill 2274.

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

IN SUPPORT OF BILL S. 2274

CONGRESS HALL,
Washington, D. C., February 25, 1929.

MY DEAR SENATOR HEFLIN: Continuing and extending the line of facts that I gave you in my sworn affidavit in support of Senate bill 2274, which, at my request, you printed in the CONGRESSIONAL RECORD

of February 21, I reaffirm that Mr. Beck and Mr. Flanoy, or Flanory, and Mr. Kerr, or Carr, of the Secretary of State's office are aware of the identity of the writer, or writers, of those false reports and malicious letters that have been sent to Senator KING and others about the holdup and robbery of the steamship *Lake Elkwood* at Rio de Janeiro.

The whole correspondence sent out from the offices of the Secretary of State, during the past nine years, on the subject of the above robbery, has been diplomatically—that is, deceitfully—dictated and worded with intent to shield or cover up the identity of the ring leader of the Rio ship robbers who was Arminius T. Haeberle, acting United States consul at Rio at that time, and he was feathering his nest by delaying Shipping Board ships and manipulating their cargoes and "repair bills" and "provision bills" for imaginary repairs and provisions that were never furnished except on paper.

Mr. Haeberle, acting United States consul, worked hand in hand with the notorious Enrique, or Henrique, Lage, of the make-believe firm of Lage Bros., a Portuguese band that grabbed the interned German ships and the German repair shops known as the "Isle de Vienna" in Rio de Janeiro Harbor, near to the piratical dens with which the great Brazilian port was infested during the World War.

Here it was easy to get away with a ship's cargo and stick the ship up in some cove "for repairs" and hold her indefinitely.

In that way Henrique Lage grew fabulously rich in a short time. And Acting Vice Consul de Momsen, Haeberle's predecessor in the Rio consulate of the United States during the war, grew rich covering up Lage's dark deeds. M. de Momsen resigned from the United States consular service and naturalized himself as a Brazilian citizen and set up in the practice of law in Rio, and thus immuned himself from American criminal prosecution.

Haeberle succeeded M. de Momsen as acting vice consul in 1919, and he straightway retained de Momsen as legal advisor to the United States consulate. M. de Momsen knew the ropes; he knew Henrique Lage, and stood in with the Portuguese band of ship pillagers.

That was the crowd the steamer *Lake Elkwood* fell into the hands of on October 8, 1919.

The *Lake Elkwood*, en route from Norfolk to Buenos Aires, had merely put in at Rio, under her own steam, to shift a damaged propeller and install a spare one that she had on board, a job that could have been done in one day for less than $1,000.

I was in command of the ship, and I had radioed ahead to the American consul to have a dry dock ready for me to expedite the job and enable me to shift propellers and proceed quickly. That was all I needed in Rio—the use of a dry dock one day.

But Mr. Haeberle, acting consul, got in touch with Henrique Lage and arranged with him to grab my ship and unload my cargo and sell it at one-half of its value.

They carried out the holdup as soon as I dropped anchor and went ashore to enter and clear my ship at the customhouse.

Haeberle and Lage had three foreigners to act as surveyors to pass upon the damaged propeller and make recommendations. These recommendations were, of course, prearranged, and the surveyors merely signed them and took their fees. They visited the ship 30 minutes, looked at her, and went ashore.

Here it will be interesting to hear how much the "surveyors'" fees for their 30-minute job came to. Here are the figures copied direct from the Shipping Board's books. I also borrowed the original bills, and I will exhibit them to Senators:

1. For survey work on steamship Lake Elkwood:

	Milreis
Dr. Alvaro Gomez de Mattos—	
Attending survey Oct. 8, 1919	1,990$000
Attending survey Nov. 24, 1919	200$000
Total	2,190$000

The above, reduced from milreis to United States dollars, at the average exchange rate of 3 milreis to the dollar, comes to $730—pretty good fee for a Spaniard helping a crooked consul hold up a ship.

2. Capt. C. W. Gilbert:

	Milreis
For survey work on steamship Lake Elkwood—	
Attending survey Oct. 8 and Nov. 24, 1919	2,180$000

Reduced to dollars, Gilbert's survey bill was $726.66 for his 30 minutes' work.

3. Mr. H. E. Inman, "surveyor":

	Milreis
For attending on steamship Lake Elkwood, Oct. 8 and Nov. 24, 1919	2,170$000

Reduced to dollars, Mr. Inman got $723.33 for his 30 minutes.

The above bills in their original form, O. K'd by A. T. Haeberle, are in my possession, having been loaned to me by an upright officer of the United States Government for me to exhibit as proof of Haeberle's guilt and statecraft at Washington.

These "survey" bills, which would have been about $10 each at New York, were over $700 each at Rio, and Haeberle paid them to cover his crimes, and he charged it all up to the expense account for repairing the ship, and the United States Government, through the State Department, paid it, and the State Department whitewashed Haeberle and sent him to Germany.

It will interest everybody in the United States to hear that each of Mr. Haeberle's "surveyors" actually received more for "surveying" my damaged propeller 30 minutes than my pay as captain was for 60 days. I was on Government duty under contract as captain at $330 a month, and two full months would not be as much as each "surveyor" got for 30 minutes. And the rich part of it is that Haeberle was required by law to put Americans—officers of American ships in port—on all survey jobs, but he ignored the Americans in port, and hired the three foreigners above named—Dè Mattos, Spaniard; Inman and Gilbert, Britishers.

Here I will sum up a few of the bills that Acting Consul Haeberle paid to his associates for helping him hold up the *Lake Elkwood* and get away with her cargo and stores worth $200,000:

1. For "survey" work, 3 surveyors—De Mattos, Celbert, and Inman	$2,179.99
2. For special subagent, A. H. Price, a clerk in an English ship agency	2,300.00
For "special services":	
Frank J. Green, a deserter from the ship	1,600.00
Lage Bros., for "repairs"	15,000.00
Lage Bros., other items	5,000.00
W. H. Taylor, "supplies"	1,666.00
C. W. Celbert, supplies	1,000.00
Total	28,745.99

The above $28,745.99, paid out by Mr. Haeberle to his aides in the Rio holdup, represents but a small part of the long list of graft bills in my possession.

I am here at the Senate now to lay bare the whole plot and to show how Haeberle's friends in the offices with Mr. Beck, Mr. Carr, and Mr. Flanory have diplomatically protected Haeberle and kept him out of prison and on the pay rolls of the State Department all of these years for "expediency," and how they black-listed me and prevented me from getting a job and held up my wages due to me for that voyage to South America, and slandered me in their letters to Senator KING to induce him to oppose Senate bill 2274 for my back pay.

The vindictive men in the State Department have done those things to me for punishment because I opposed Arminius T. Haeberle, a crook in the Consular Service, who whacked up the graft money so liberally among his protectors, as shown by the bills listed above.

Please add this letter to my affidavit and print it in the RECORD as a part thereof in support of bills S. 2274 and H. R. 14139.

WILLIAM H. CHAMBLISS.

ENFORCEMENT OF PROHIBITION

Mr. HARRIS. Mr. President, will the Senator from Virginia yield to me for just one moment?

Mr. GLASS. If it does not lead to debate.

Mr. HARRIS. Under Rule XL, I send to the desk a notice of a motion to suspend the rules. I do not think my amendment is subject to a point of order, but I want to take no chances. Therefore I send this notice to the desk and ask to have it read.

The PRESIDING OFFICER. The notice will be read.

The Chief Clerk read as follows:

NOTICE OF MOTION TO SUSPEND RULES

Pursuant to the provisions of Rule XL of the Standing Rules of the Senate, I hereby give notice in writing that I shall hereafter move to suspend paragraph 1 of Rule XVI, for the purpose of proposing to the bill (H. R. 17223) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1929, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1929, and June 30, 1930, and for other purposes, the following amendment, viz: On page 64, strike out lines 3 to 11, inclusive, and insert in lieu thereof the following:

"For increasing the enforcement force, $24,000,000, or such part thereof as the President may deem useful, to be allocated by the President, as he may see fit, to the departments or bureaus charged with the enforcement of the national prohibition act, and to remain available until June 30, 1930."

The PRESIDING OFFICER. The notice will lie over for one day.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from Mississippi?

Mr. GLASS. For what purpose?

Mr. HARRISON. I wanted to inquire of the Senator from Georgia something about this proposed suspension of the rules, unless we are in a very great deal of a hurry about this other matter.

Mr. GLASS. I did not yield for any controversy over the proposition of the Senator from Georgia.

Mr. HARRIS. I had told the Senator there would be discussion of it. I hope the Senator will not pursue the matter at this time.

Mr. HARRISON. Does the Senator from Virginia intend to proceed this afternoon with his remarks?

Mr. GLASS. Momentarily, I do.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from Utah?

Mr. GLASS. In just a minute, if the Senator from Utah will wait until I can make a brief statement about this bill.

Mr. RANSDELL. Mr. President, will the Senator please yield to me to present a report from the Committee on Commerce?

Mr. GLASS. Yes.

CARVILLE MARINE HOSPITAL RESERVATION, LOUISIANA

Mr. RANSDELL. From the Committee on Commerce, I report back, favorably, without amendment, Senate bill 5656, authorizing the Secretary of the Treasury to grant a right of way for a levee through the Carville Marine Hospital reservation, Louisiana, and I submit a report (No. 1918) thereon.

This is an important public matter. There is no opposition at all to it. I ask unanimous consent that the bill may be considered at this time. If it leads to any discussion whatever, I will drop it.

Mr. GLASS. Very well.

The PRESIDING OFFICER. 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, which was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized to grant the board of commissioners for the Pontchartrain levee district, an authorized agency of the State of Louisiana, or the State of Louisiana, a right of way through the Carville Marine Hospital reservation, parish of Iberville, State of Louisiana, in such location as may be designated by him, for the purpose of constructing and maintaining a new levee to replace the existing main-line levee in front of said reservation along the Mississippi River.

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

Mr. RANSDELL. I thank the Senator.

FARMERS' PRODUCE MARKET

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 8298) authorizing the acquisition of a site for the farmers' produce market, and for other purposes.

Mr. GLASS. Mr. President, this bill, which has been made the unfinished business, is a House bill which has been on the Senate Calendar since the 3d of last April with a favorable report from the Committee on the District of Columbia. It is a bill that has had the indorsement of the District Commissioners and of the business community, and, in the only popular demonstration we have had, of the people of the District of Columbia.

So far as I am concerned, I am willing to vote on the bill now without further discussion; but the junior Senator from Maryland [Mr. TYDINGS] has notified me that he wishes to speak on the bill, and I have agreed that he shall be given an opportunity to speak on it.

Mr. SMOOT. Mr. President, will the Senator yield?

Mr. GLASS. I yield to the Senator from Utah.

Mr. SMOOT. I should like at this time to ask that the action of the House of Representatives on the Interior Department appropriation bill be laid before the Senate, not with any idea of displacing the unfinished business.

Mr. GLASS. I am willing. The Senator desires to have the unfinished business temporarily laid aside?

Mr. SMOOT. Temporarily laid aside for that purpose.

Mr. GLASS. I have no objection to that, Mr. President.

Mr. WALSH of Montana. I object, of course.

The PRESIDING OFFICER. The Senator from Utah asks unanimous consent that the unfinished business be laid aside, and that the Senate proceed to the consideration of the action of the House on the Interior Department appropriation bill. Is there objection?

Mr. WALSH of Montana. I object.

The PRESIDING OFFICER. The Senator from Montana objects.

Mr. SMOOT. I do not want at this time to have the unfinished business laid aside, and I will not ask that the action of the House on the Interior Department appropriation bill be laid before the Senate now.

Mr. GLASS. If I can successfully resist, I am not going to permit the unfinished business to be laid aside.

Mr. SMOOT. I am not asking that at this time.

Mr. GLASS. I find myself subjected to some embarrassment. I do not care to discuss this bill; it is more or less familiar to all the Senate, and I am perfectly willing to have a vote on the bill now, and shall insist on having a vote if some Senator does not want to discuss it.

Mr. BRUCE. My colleague is deeply interested in this bill, as the Senator from Virginia knows, and he happens to be out of the Chamber at the present moment. I have sent for him, and he will be here, I am sure, within the next 10 or 15 minutes. I think it would be a bitter disappointment to him and to those he represents if he should have no opportunity to discuss the measure. I discussed it last spring, and do not care to say anything more about it.

Mr. GLASS. I understand that the senior Senator from Maryland has no desire to discuss the bill further, nor have I; but I can not permit the unfinished business to be laid aside simply because the Senator's colleague is not here.

Mr. HARRISON. Mr. President, will the Senator yield?

Mr. GLASS. I yield.

Mr. HARRISON. I am sure that the junior Senator from Maryland [Mr. TYDINGS] is not here because of the arrangement he thought we had made respecting the other legislation which was pending, namely, that there was to be general debate until 4 o'clock, and that we were then to take up the Nicaraguan survey resolution under the 10-minute rule. I am quite sure that is the reason why he is not here.

Mr. GLASS. But I do not intend to lose my status before the Senate because of that fact. I have insistently notified the Senator from Maryland that this bill was the next on the program of business, and that I should call it up and pursue the matter to a conclusion.

Mr. ROBINSON of Arkansas. Why not proceed with it now?

Mr. GLASS. I am ready for a vote. I do not care to talk on the bill.

Mr. BRUCE. I suggest that the unfinished business be laid aside for half an hour, and by that time my colleague will probably be here, and if he is not I shall make no further objection to proceeding with the bill.

Mr. GLASS. Objection has been made to laying the bill aside at all.

Mr. BRUCE. Nothing can be gained by taking it up and pursuing the matter now, for if necessary I will take up an hour or so myself. I hope the suggestion I have made will be acceded to, that is to say, that the unfinished business be laid aside for half an hour.

Mr. WATSON. How long will it be before the Senator's colleague will be here?

Mr. BRUCE. He sent me word 10 minutes ago that he would be here in half an hour. If he is not here within that time, I shall have nothing more to say.

Mr. WATSON. Why does not the Senator from Virginia make a statement respecting his bill, placing it before the Senate, and by that time the probabilities are that the other Senator will have arrived?

Mr. HEFLIN. I do not see why the Senator from Virginia should wait until somebody comes.

Mr. GLASS. I have already stated in detail the provisions of the bill. I discussed it for 40 minutes.

Mr. WATSON. But that was some time ago.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Virginia yield to the Senator from Idaho?

Mr. GLASS. Yes; I yield.

Mr. BORAH. There is one feature of the bill which I would like to have the Senator discuss for a few moments. Two different committees of farmers have waited upon me within the last few days, stating that the farmers who desire to bring their stuff to the market are practically all opposed to this bill. I would like to have the Senator state the disadvantage, if any, which would accrue to the farmers who desire to market their stuff directly, by reason of the location which the Senator is advocating in this bill. I know nothing about it except what has been stated to me, and I would like to have the Senator's views in regard to that matter.

Mr. GLASS. When the Senator speaks of farmers, I would like to know what farmers. I would like to know if the farmers of Idaho are objecting to the bill. I venture to say that the farmers of Idaho send about as much produce to the farmers' market in the District of Columbia as do the farmers in the immediate vicinity who have waited on the Senator from Idaho. I will say to the Senator from Idaho further that 85 per cent of the farm produce consumed here in the District of Columbia comes to the District over railroads and on the steamers which ply the Potomac River, and less than 12 per

cent of it is supplied by the farmers who are adjacent to the District of Columbia.

Mr. SMOOT. Mr. President, will the Senator yield?

Mr. GLASS. I yield.

Mr. SMOOT. I have received a great many letters in relation to the bill, the writers claiming that it is only a railroad fight, a contest between two railroads.

Mr. GLASS. It could not be between two railroads. It is a fight of four railroads on one side, and the steamboat companies and one railroad on the other, if it be a railroad fight; but it has never occurred to me that it is a railroad fight. No railroad representative has approached me on the subject.

Mr. CURTIS. Mr. President, the question is, What effect will it have on the local producers? It has been stated that this was a wholesale market and not a retail market, and that the local producers would have no retail market. Does the Senator know anything about that?

Mr. GLASS. The retailers of farm produce will have better facilities for the conduct of their business at the southwest site than they have had for years at the Center Market site, and infinitely better facilities than may be provided at any of the other sites mentioned, not one of which has been definitely suggested by any association or any number of producers in the District of Columbia, except one little coterie of produce merchants who have gotten an option on a site here which they want to utilize for real-estate speculation purposes.

Mr. SACKETT. Mr. President, I have heard it said in the last day or two that if we changed to the southwest site the farmers could not sell their produce at retail. This bill, which came before the committee, does not change the practice which has been in vogue at the Center Market?

Mr. GLASS. Not in the slightest degree.

Mr. SACKETT. If they can sell at retail at the Center Market location they would have exactly the same privileges at any other location?

Mr. GLASS. Precisely.

Mr. SACKETT. It would not make any difference whether it went to the southwest site or to some other site?

Mr. GLASS. Not one particle of difference would it make. There would be no change in that respect whatsoever. On the contrary, the facilities afforded by the southwest site for retail purposes will be greater than those at the existing Center Market site.

Mr. WHEELER. Mr. President, will the Senator tell me just where he proposes that this new market shall be located?

Mr. GLASS. It is to be located in the southwest, on the water front.

Mr. WHEELER. On the Potomac River?

Mr. GLASS. Yes; on the water front.

Mr. WHEELER. Will that not be so far away from the center of population, when the city is growing northwest, that it will be extremely unhandy for the people of the District?

Mr. GLASS. No; it is not far away. It is just a few blocks removed from the existing site, which must be abandoned, and it is in closer proximity to the people who patronize the market than any other site which has been mentioned.

Mr. DILL. Will it not be necessary in the future for all the population lying north of Pennsylvania Avenue to cross the Mall district to get to the proposed site, after the Mall shall have been completed?

Mr. GLASS. They have to cross Pennsylvania Avenue to get to the site where the market has always been.

Mr. DILL. But the Mall district will be 1,600 feet wide, and, as I understand it, it is proposed that the market shall be on the south side of the Mall, and all the people living on the north side of the city will be compelled to pass across the Mall to get to the market.

Mr. GLASS. Yes; and to indicate how much objection the people who have to go to this market entertain for that sort of thing, every hotel located in Washington is north of Pennsylvania Avenue, and yet every hotel has advocated this southwest site.

Mr. DILL. The hotels do not contain the people who live here.

Mr. GLASS. But they furnish the "feed" to a great many people who "feed" here.

Mr. DILL. Not the people who live here.

Mr. GLASS. I do not like to fire all my ammunition in the absence of a Senator who ought to be here to discuss this bill, but, as a matter of fact, when the matter was submitted to the people of the District, 10 to 1 voted for the southwest site as against any other site that has been mentioned.

Mr. ROBINSON of Arkansas. How was it submitted?

Mr. GLASS. It was submitted through a referendum in the Washington Post. There were 30,000 responses to the poll taken. Nineteen thousand three hundred and seven voted for the southwest site, 9,434 voted for the mid-city site, 59 voted for the Eckington site, which is the site that has caused all the row. It got 59 votes out of 30,000 votes cast, and there were 82 votes cast for other sites.

Senators who are familiar with the situation know that it is literally impossible to go to the Eckington site, where these real-estate speculators want to take us, and where there are no railroad facilities whatsoever, where there is no water frontage and no water transportation facility whatsoever.

Mr. President, as there seems to be a pretty general desire to have me exhibit myself in the rare rôle of talking against time, which I have never done before in my life, I will discuss this market bill, provided somebody will go down into the Committee on Appropriations room and tell them not to report the appropriation bill now before them until I can get there and have an opportunity to be heard.

Mr. McKELLAR. I will say to the Senator that the Subcommittee on the Committee on Appropriations has adjourned, and the matter in which the Senator from Virginia is concerned has gone over until to-morrow.

Mr. GLASS. Very well; then I will give the Senate some exceedingly dull history. [Laughter.]

Mr. President, the so-called farmers' market was created by the act of May 20, 1870. I think that is going back far enough. [Laughter.] The act provided:

> That the city government of Washington shall have the right to hold and use, under such rules and regulations as the said corporation may prescribe, the open space at the intersection of Ohio and Louisiana Avenues with Tenth and Twelfth Streets as a market for the purchase and sale of the following articles, to wit: Hay, straw, oats, corn, cornmeal, seed of all kinds, wood for sale from the wagon, cattle on the hoof, swine on the hoof, country produce sold in quantities from the wagon, and such other bulky and coarse articles as the said corporation may designate. And from and after the passage of this act marketing of the products named herein shall be excluded from Pennsylvania and Louisiana Avenues and the sidewalks and pavements thereon.

It was a wholesale market in its original design and purpose. That it was so considered is shown by a resolution of the board of public works of April 26, 1874, as follows:

> Voted: To approve the arrangement with the Washington Market Co., proposed in the company's letter of April 8, 1872, relative to the open space at the intersection of Ohio and Lousiana Avenues and Tenth and Twelfth Streets, used as a wholesale market, this arrangement not to prejudice any lawful future action of the board of the legislative assembly or of Congress. (S. Rept. 449, 43d Cong., 1st sess., p. 50.)

This was confirmed in report to the Senate of June 13, 1874, by Senator Morrill, of Vermont, chairman of the Public Buildings and Grounds Committee, as follows:

> The open space between Tenth and Twelfth Streets at the intersection of Ohio and Louisiana Avenues designed as a free wholesale market for cattle, swine, corn, flour, wood, hay, and other country products and surrendered by Congress to the city of Washington for the purpose, has been assigned by the board of public works to the market company, which has made some improvements thereon, and charges a moderate fee for any use of the same. (S. Rept. 449, 43d Cong., 1st sess., p. 7.)

Senators who are so intensely interested in this recital which I am making will observe that these quotations address themselves exclusively to the question of whether the market was in its original form a wholesale market. The more interesting phases of the problem I shall undertake to discuss, perhaps after the junior Senator from Maryland [Mr. TYDINGS] has made his speech.

This farmers' market so provided by Congress has been essentially a wholesale market for over 50 years of operation, although a small percentage of the gross business has been conducted at retail. It appears from the best evidence obtainable that in recent years approximately 92 per cent of the gross business of this market is wholesale and the remaining 8 per cent retail. (See Senate hearing, 1927, pp. 143–148.)

This plan of operation is characteristic of the municipal farmers' markets provided and maintained by most of the large cities of the United States. (See report of Federal Trade Commission on Wholesale Marketing of Food, 1920, p. 59.) According to a survey made in 1918 by the Census Bureau there were 237 municipal markets in 128 of the 227 large cities, and in 63 of the cities the farmers' markets were exactly of the type of the Washington farmers' market as conducted for the past 50 years and as proposed under the Stalker bill.

While there is nothing in the Stalker bill to prevent retail sales—and retail sales will continue just as they have in the past—it is well to consider that the purpose of this bill is primarily to provide the farmers with the opportunity to dispose of their produce in quantity lots, inasmuch as they already have

the opportunity for retail sales at all the rest of the municipal and private markets in the city.

People talk as though, if this market were established, it would be the end of the retail business in the District of Columbia; whereas we have numerous retail markets conveniently located throughout the city of Washington and whereas, as every Senator must know, the retail business of this as of any other large city is to a tremendous extent conducted in the corner groceries and not at the market house.

This opportunity for retail sales already is afforded at the Western Market, the Eastern Market, the P Street Market, the Seventh Street Market, the Fifth and K Streets Market, and many others, but now that the farmers have been driven from the space originally allotted them primarily for wholesale transactions, there is no place, unless Congress provides it by the Stalker bill, for them to sell wholesale.

Only one of two measures can be applied in dealing with this situation. A market site must be provided on which to continue these marketing operations as they have been conducted for the past 50 years; or the farmers must be prohibited from selling their produce in quantity which would cause a discontinuance of such marketing operations.

If no market space is provided for such farmers and they are prohibited from selling on the streets, the only other method of disposing of their produce in bulk would be to sell it to the commission merchants, which would inevitably result in an increase of at least 10 per cent in the cost of farm produce. This commission would be added by commission merchants in their sales to market storekeepers, hotels, restaurants, and boarding houses and would be passed along to the ultimate consumers.

Mr. President, I do not care to pursue the discussion, aside from that phase of it which I have presented, until the junior Senator from Maryland [Mr. TYDINGS] has made his argument against the bill, which I was told he would be enabled to make in about 15 minutes.

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. GLASS. Certainly.

Mr. TYDINGS. I would appreciate it, though I do not want to delay the Senate from consideration of the matter, if I might be enabled to proceed in the morning. I would appreciate it if the Senator would work with me to that end. I will assure him that so far as I am individually concerned I shall not be an obstructionist in any way in the world.

Mr. GLASS. That is what I would prefer if it suits the convenience of the Senate to do it.

Mr. TYDINGS. We can take up the calendar perhaps at this time.

Mr. GLASS. I would not permit my bill to lose its status as the unfinished business, much as I would like to meet the convenience of my friend from Maryland. However, if he can prevail upon the Senate, I shall be glad.

Mr. CURTIS. Mr. President——

The PRESIDING OFFICER (Mr. WATSON in the chair). Does the Senator from Virginia yield to the Senator from Kansas?

Mr. GLASS. I yield.

Mr. CURTIS. I was about to ask for an executive session, but I understand the Senator from North Dakota [Mr. FRAZIER] has a resolution which he would like to call up at this time if the Senator from Virginia will yield for that purpose.

Mr. ROBINSON of Arkansas. What is the resolution?

Mr. WHEELER. To enable the Committee on Indian Affairs to continue its hearings.

Mr. VANDENBERG. Mr. President, will the Senator yield to me?

Mr. GLASS. I yield to the Senator from Michigan.

Mr. VANDENBERG. If the unfinished business is to be postponed to suit the convenience of the Senator from Maryland, I wonder if the postponement can not carry with it an agreement to vote at a certain time to-morrow?

Mr. GLASS. I am prepared to vote right now.

Mr. BRUCE. I am prepared to say something about the matter.

Mr. TYDINGS. So far as I am concerned personally, I shall not delay the vote, but I do know there are four or five Senators who want to speak against the bill and some amendments will be offered to it which will change its character. I think, as it is late this evening, we could dispose of it to-morrow and not have to carry it over two days.

Mr. VANDENBERG. Are those Senators Members who take an interest in this particular bill?

Mr. TYDINGS. They are interested in the subject matter, and most of them are against the bill.

Mr. GLASS. Mr. President, I may say that I had not been informed that any Senator wanted to speak on the bill except the junior Senator from Maryland, but I am unwilling to have myself maneuvered out of the position which I want to occupy with reference to the bill.

Mr. CURTIS. Mr. President, if the Senator from Virginia will yield——

Mr. GLASS. Certainly.

Mr. CURTIS. I suggest that we go into executive session. The resolution of the Senator from North Dakota can not be taken up until the Senator from Arizona [Mr. HAYDEN] is present. We can then come back into legislative session and remain in legislative session until 6 o'clock. That would not displace the measure of the Senator from Virginia. At 6 o'clock we must take a recess until 8 o'clock under the unanimous-consent agreement. If the Senator from Virginia will yield for that purpose, I will move an executive session.

Mr. GLASS. I yield for that purpose.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

Mr. BRUCE. Mr. President, I hope the Senator will not do that now. I am prepared now to say what I have to say on the marketing bill.

Mr. ROBINSON of Arkansas. Then why not let the senior Senator from Maryland make his speech?

Mr. CURTIS. Very well. I withdraw my motion if the Senator is ready to speak.

Mr. GLASS. I understood that the senior Senator from Maryland did not want to speak on the bill.

Mr. BRUCE. Naturally the Senator might have drawn that inference. I do not find fault with that at all.

The PRESIDING OFFICER. The Senator from Maryland will proceed.

Mr. BRUCE. Mr. President, I really have very little to say on this subject; but now that some statements have been made by the Senator from Virginia [Mr. GLASS] with reference to it, I feel that it is incumbent upon me to express my views briefly about it.

In the first place, I wish to declare that if the bill is passed here the Senate should forever seal its lips with respect to the welfare of the farmer. This market is a farmers' market. No matter what its origin was, it has come to be known as a farmers' market. The fact was brought out last spring when farmers bring in farm produce to Washington each day to the number of 465 from Maryland, 81 from Virginia, and 55 from the District of Columbia. They come to Washington every day and supply it with fresh asparagus, fresh celery, and other fresh vegetable produce of every sort. They are earnestly interested in having this bill defeated. Last spring the fact was brought out that the Maryland farmers who use the farmers' market in Washington were unanimously opposed to it; that the same thing was true of the District of Columbia farmers who use that market; and that if my memory does not fail me 45 out of the sixty-odd Virginia farmers who use it were opposed to it. I understand that since that time by assiduous drumming some of the Virginia farmers were brought over to the side of the Senator from Virginia [Mr. GLASS]. How true that allegation is I do not know.

Mr. GLASS. Mr. President, of course, in the first instance it was just by that sort of drumming that any of them were gotten on the side of the Senator from Maryland.

Mr. BRUCE. Of course, I am not prepared to admit that, because certainly there is not an iota of evidence to show that the Maryland and District of Columbia farmers were subjected to anything in the nature of urgent solicitation. These are real farmers—bear that in mind; they are dirt farmers; they are honest-to-goodness farmers; they are farmers whose vital force is ever renewed from day to day by actual contact with the earth.

The whole question in this case, with due respect to the Senator from Virginia, is whether the little finger of the Pennsylvania Railroad is to be thicker than the loins of the Maryland, District of Columbia, and Virginia farmers.

The Senator says that nobody connected with the Pennsylvania Railroad Co. has had anything to say to him with respect to this bill. Of course, I accept that statement, as I would any statement made by the Senator from Virginia, as true, but, all the same, if there were no Pennsylvania Railroad, there would be no Stalker bill.

Mr. GLASS. I might retort that if there had been no Baltimore & Ohio Railroad, there would be no opposition to the Stalker bill.

Mr. BRUCE. All I have to say in reference to that suggestion is that I have never received one single, solitary communication of any kind, oral or written, from anybody connected with the Baltimore & Ohio Railroad touching this bill.

Mr. GLASS. I have not suggested that the Senator had; nor have I received any suggestions, either in writing or by word of

mouth, from anybody connected with the Pennsylvania Railroad.

Mr. BRUCE. I am not appearing here for the Baltimore & Ohio Railroad, although if the Baltimore & Ohio Railroad had any interest in this bill and came forward and gave me good reasons from their viewpoint why I should oppose it, I should have no objection whatever to their presenting those reasons to me.

Mr. GLASS. The Senator should accord me the same right in the event the Pennsylvania Railroad should want to talk to me on the subject.

Mr. BRUCE. I never attempt to withhold any right from the Senator, because I know that if I should try to do so, he would take it, anyway.

Mr. GLASS. Yes.

Mr. WHEELER. Mr. President, do I understand this is just a fight between the Pennsylvania Railroad and the Baltimore & Ohio Railroad?

Mr. GLASS. No; but, as has already been indicated, if it is desired to put it on a railroad plane, there are four railroads and two or three steamboat companies arrayed against one railroad.

Mr. BRUCE. Those railroads, however, are all affiliated with the Pennsylvania Railroad; they all use the Potomac Yards; and they all want the Southwest market site on the water front instead of north of Pennsylvania Avenue.

Mr. GLASS. Yes; but the farmers who send 85 per cent of the produce consumed in the District of Columbia use the Potomac yards.

Mr. BRUCE. The Senator knows, however, that a very large part of the vegetable produce that is brought into Washington from any considerable distance is brought in by trucks.

Mr. NEELY. Mr. President, will the Senator yield?

Mr. BRUCE. Yes.

Mr. NEELY. I hope that there is a better reason for choosing a certain market site for the District of Columbia than that which lies in the fact that it is situated on or near a certain railroad. But if the determination of the question before the Senate depends upon a choice between the Baltimore & Ohio and the Pennsylvania Railroads, I shall unhesitatingly and enthusiastically vote for the Baltimore & Ohio every time.

Mr. BRUCE. I think that is a very discreet and natural choice to be made by the Senator from West Virginia, because, as he knows, the Baltimore & Ohio Railroad is the child of the State of Maryland and the State of West Virginia.

Mr. NEELY. The Senator from West Virginia also believes that it is the world's best railroad. It has for its president Mr. Daniel Willard, one of the ablest and most humanitarian of railroad executives, and for its chief counsel Hon. John J. Cornwell, the brilliancy of whose record as Governor of West Virginia from 1917 to 1921 has never been surpassed.

Mr. GLASS. Of course, on account of those circumstances the market ought to be located north of Pennsylvania Avenue in the District of Columbia.

Mr. BRUCE. Mr. President, I am not in the slightest degree influenced by such considerations. I stand here in my representative capacity as the mouthpiece of the farmers of Maryland, the District of Columbia, and Virginia, who last spring by an overwhelming majority favored a market location other than the southwest site. I have never seen any group of individuals since I have been a Member of the Senate as zealously and eagerly interested in defeating a measure as are the farmers of those different communities in defeating this bill.

The Senator from Virginia speaks exactly as if there was nobody concerned about its defeat but the farmers. Of course, I consider the farmer an individual of sufficient importance to render his class view about any matter of public policy a thing of no little significance, but it so happens that the practically unanimous opposition of the farmers who supply Washington with fresh vegetable produce every day has been fortified to begin with by the expert conclusion arrived at by the National Capital Park and Planning Commission. Mind you, that commission thinks that this market site ought to be located somewhere north of Pennsylvania Avenue, and not down on the water front, which is the location of the southwest site.

Then the United States Bureau of Efficiency too has made a special study of the whole situation and has brought in a report in which it reaches the conclusion that the farmers' produce market for the city of Washington should not be located south of Pennsylvania Avenue for the reasons that it gives. I ask Members of the Senate to listen to those reasons because it seems to me almost inconceivable that the Senate, in the face of such an accumulation of good reasons as they are, would support this bill. The United States Bureau of Efficiency says that the farmers' market should not be located south of Pennsylvania Avenue—

Because every farmer coming into the city from the north and west would have to go through the down-town congested zone of the city.

Because the Federal development of the Mall triangle will further add to the congestion of the so-called down-town congested zone.

Because there are only four north-and-south highways running through the Mall that would be convenient to southwest sites Nos. 1 and 2, viz, Sixth, Seventh, Twelfth, and Fourteenth Streets.

Mr. WHEELER. Mr. President, we have heard from the friends of the Baltimore & Ohio Railroad in this controversy. I should like to hear some Senator say something about why the Pennsylvania Railroad Co. should be favored in this matter.

Mr. BRUCE. In due time, I suppose, the Senator will hear that from the Senator from Virginia.

Mr. GLASS. Why does the Senator suppose that? Why should he suppose that?

Mr. BRUCE. Why should I suppose that?

Mr. GLASS. Yes.

Mr. BRUCE. Because——

Mr. GLASS. I have said to the Senator that I have had no communication direct or indirect from the officials of the Pennsylvania Railroad Co.; in fact, I learned from the two Senators from Maryland that railroad interests were involved in this discussion.

Mr. BRUCE. But there are all sorts of oblique ways in which information can get to a Senator without his having any direct or indirect contact with a railroad.

Mr. GLASS. The Senator thinks, then, I am too simple to know when I am being approached and when I am not? Is that the idea?

Mr. BRUCE. Oh, no; I do not think anybody would ever accuse the Senator of simple-mindedness. His enemies might accuse him of almost anything else except simple-mindedness.

The United States Bureau of Efficiency goes on to say that another reason why the farmers' market should not be located south of Pennsylvania Avenue is—

5. Because it is impossible to extend either Eighth, Ninth, Tenth, Eleventh, or Thirteenth Streets through the Mall on account of existing public buildings or projected ones.

Again:

6. Because the Federal building program for the Mall triangle will undoubtedly necessitate the changing of existing car tracks and the rerouting of all street-car lines traversing this area.

I ask Senators to listen to these reasons. It seems to me that every one of them has a world of force in it.

7. Because four-fifths of the entire population of the District of Columbia live north of Pennsylvania Avenue.

8. Because more than nine-tenths of the hotels and boarding houses, more than four-fifths of the restaurants and lunch rooms, and more than three-fourths of the retail grocery stores are located north of Pennsylvania Avenue.

9. Because the future expansion of the city—in population and in the number of hotels and boarding houses, restaurants and lunch rooms, and retail grocery stores—will in a large measure be north of Pennsylvania Avenue.

10. Because at least 20 per cent of the business of the farmers' produce market is a retail business, which in a large measure would be lost to the farmers if the market is located in southwest Washington. This retail business amounts to more than $600,000 per year.

11. Because it would send through the Mall triangle and the Mall a lot of the objectionable traffic.

12. Because the southwest area lacks in street-car facilities as compared with other sections of the city.

I call the attention of the Senator from Montana to the fact that those reasons are not reasons urged by the Baltimore & Ohio Railroad or any interested agency; they are reasons given by no less an authority than the United States Bureau of Efficiency, after a sedulous comparison of different suggested market sites.

The fact is also brought out in the testimony that, in addition to the preference of the National Capital Park and Planning Commission and the United States Bureau of Efficiency for a site for the farmers' market north of Pennsylvania Avenue, not less than 55 of the civic organizations of the city of Washington have expressed the same preference, and the testimony also shows that not less than 85 per cent of all the commission merchants in the city of Washington entertain that preference. In other words, reversely speaking, 55 civic associations and 85 per cent of the commission merchants in Washington are opposed to the southwest site for the farmers' market.

At first blush, it would seem to be a matter of some importance for a farmers' market site to be located on the Potomac water front, but under existing trade and transportation conditions that is a totally negligible consideration. No produce worth talking about is brought up the Potomac River except by steamboats, and that is distributed directly from the wharves of the steamboat line or lines after it reaches the city of Washington to points in or outside of the city of Washington. Even fish are no longer brought to the southwest site by way of the Potomac River except to a small extent.

It is not at all an uncommon thing for a fish market in a great city at the present time to be wholly detached from any other markets in such a city. That is true in Baltimore. We have a fish market there, and it is totally disconnected from any of the other markets of that city.

Fish are now transported mainly in refrigerator cars. I had something to say on this subject last spring, and in the course of my remarks I used these words:

> Besides, some of the Members of the Senate are doubtlessly aware of the fact that, after all, only a small percentage of the fish that are consumed in the city of Washington are brought up the Potomac River. Fish are mainly brought to Washington in refrigerator cars, some from the Chesapeake Bay and its tributary streams, some from points still farther south, some from the West, some from the Great Lakes, and some from waters as far north as Maine. So, as far as I can see, there are no countervailing considerations to offset the considerations that so definitely, so persuasively, so conclusively point to some location north of Pennsylvania Avenue as the proper location for the new farmers' produce market. There it should be—there, where the geographical center of Washington is; there, where the center of population of Washington is; there, where the great mass of the population of Washington is; there, where a still greater mass of population will be as the future of the city unfolds; there, where the commission merchants are ready to go; there, where the farmers are ready to go; there, where the hotels and the boarding houses, the restaurants and lunch rooms, the retail grocery stores, and the individual patrons of markets already are in great numbers; and there, where in process of time they will be in still greater numbers.

So no importance really attaches to this southwest site because of the fact that it is on the Potomac River, whereas by virtue of its remoteness it is subject to drawbacks to which a market site north of Pennsylvania Avenue would not be subject.

It seems to me that the Senator from Virginia was just a little too—I will not use the word "dogmatic"—just a little too positive in his statement that the Commissioners of the District of Columbia have given their approval to this bill. At one time, before there had been, as I understand the case, any exhaustive discussion——

Mr. TYDINGS. Mr. President, will my colleague yield for a moment?

Mr. BRUCE. Yes.

Mr. TYDINGS. I have on my desk a letter from the District Commissioners saying that they are not in favor of the bill, which I will put in the RECORD to-morrow morning.

Mr. GLASS. I have on my desk a letter from the District Commissioners saying that they are in favor of this site, which I will put in the RECORD to-morrow morning.

Mr. TYDINGS. What is the date of the Senator's letter?

Mr. GLASS. It does not make any difference what the date of it is. If the Senator has prevailed upon the District Commissioners to change their minds about this matter, that does not interest me the least bit in the world.

Mr. TYDINGS. If I had not been able to prevail upon them, I suppose it would interest the Senator.

Mr. BRUCE. The date of the letter to the Senator from Virginia must be quite stale, I should say from my information on the subject. The only way in which I can reconcile those conflicting conclusions of the commissioners is by recalling a story that I used to hear when I was a boy.

Mr. GLASS. Mr. President, does the letter received by the junior Senator from Maryland from the District Commissioners state what site they are in favor of?

Mr. TYDINGS. The letter I have received from the District Commissioners says they are not in favor of any site because proper study has not been made. Therefore, they are not for the Senator's site, and recommend that proper study be made before any appropriation is made.

Mr. GLASS. We have been studying it for only two years.

Mr. TYDINGS. The Senator has; but all the departments of the Government have considered it previously, and not one connected with the Federal Government is in favor of it.

Mr. GLASS. I deny that proposition. It is not a fact.

Mr. BRUCE. Mr. President, all we want is a careful survey of the whole situation by the District Commissioners, and we are perfectly willing, I think I can say for my colleague, as well as myself, to abide by whatever conclusion they may reach; but I am bound to say that after the National Park and Planning Commission and the United States Bureau of Efficiency have reached a conclusion unfriendly to the selection of the southwest site, I harbor no doubt that when a close comparison is made of the different sites brought to their attention the District Commissioners will recommend some site north of Pennsylvania Avenue.

I could go much more fully into this subject than I have, but I do not deem it necessary to do so. There is no substantial reason that I can see why this market site should be placed away down there on the Potomac River in the southwest part of the city, a mile or a mile and a half, I believe, south of Pennsylvania Avenue, instead of being located in the heart of the city. I might say, if my colleague is not in a position to correct me, that these produce farmers have shown how perfectly natural their inclination is to have this market site located north of Pennsylvania Avenue by recently assembling each day for the purpose of marketing their produce up at Convention Hall, north of Pennsylvania Avenue. Of their own volition, finding that they were ousted from the old site where they had carried on their business, they have selected Convention Hall, north of Pennsylvania Avenue, as a market site.

Mr. TYDINGS. Mr. President, I hope the Senator will finish developing what he was just bringing out; but I rose to make this statement: As I see it, the only constitutional ground upon which an appropriation of this kind could be made, if at all, would be for a market that served the people; and therefore, if it were a wholesale market, I question whether or not within the limits of the Constitution we would be justified in making an appropriation practically for private purposes.

I hope the Senator before he takes his seat, if he sees fit, will develop that idea somewhat.

Mr. BRUCE. Mr. President, I feel that our footing as respects public expediency is so solid that it is unnecessary for me to resort to any constitutional arguments.

So, Senators, you see what this question comes around to. So far as my knowledge of the situation goes, here on the one hand you have the desire of a great railroad company, which uses the Potomac yards over at Alexandria, and has terminals in the city of Washington, to have this market site down on the Potomac River, at a point that is doubtless convenient to it; and that desire of the Pennsylvania Railroad is, naturally enough, shared by the different southern roads which are affiliated in one way or another with it, such as the Southern Railway, the Richmond, Fredericksburg & Potomac, the Seaboard Air Line, the Atlantic Coast Line, the Chesapeake & Ohio, and so on. On the other hand you have these farmers, about whom I have heard so much since I have been a Member of this body—these farmers as to whom there has been so much professed eagerness on the part of the Senate to promote their peculiar interests. They come here in a solid phalanx, with almost complete unanimity, and say that any site south of Pennsylvania Avenue would be in the highest degree inconvenient to them. Most of them come from the north or the northeast; and they would have to traverse practically the whole city of Washington before they could get down to the southwest site that the Senator from Virginia, for some reason or other—I do not know what—is so very warmly and effectively advocating.

Mr. GLASS. Because the Pennsylvania Railroad wants it?

Mr. BRUCE. Well, I do not like to say that after the Senator says that he has had no communication with the Pennsylvania Railroad. I always accept his statements on any subject as true.

It is practically the unanimous desire of these farmers that the site should be located north of Pennsylvania Avenue; and this predelection harmonizes completely not only with the views of 85 per cent of all the commission merchants, and of 55 civic organizations in Washington, but with the views of the hotel, boarding house, and lodging house, club, restaurant, and lunchroom proprietors in Washington, and likewise, I venture to say, with the views of every resident of Washington who lives anywhere near the center of the city. As I recollect, practically the only other interest besides the railroad interest that brought pressure to bear in behalf of this bill was a trust company near the southwest site, which, of course, is desirous of adding, as far as possible, to the number of its safe-deposit box leasers, and so forth.

That is the case as I see it. I know I have presented it in but a desultory and feeble manner; but I believe that I have

at least covered all the salient considerations that are involved in the issue between ourselves and the Senator from Virginia.

BATTLE FIELDS NEAR RICHMOND, VA.

Mr. BINGHAM. Out of order, I ask unanimous consent to report back favorably, from the Committee on Military Affairs, Senate bill 5864, to provide for the study, investigation, and survey, for commemorative purposes of battle fields in the vicinity of Richmond, Va.; and I submit a report (No. 1921) thereon.

The PRESIDING OFFICER. Without objection, the report will be received.

Mr. SWANSON. Mr. President, this is a bill authorizing an appropriation of $6,800 to make a survey of the battle fields around Richmond. A similar bill is on the calendar in the House; and I want to have this bill passed so that it can pass the House at this session. It does not contemplate the establishment of a park by the Government. All the land is to be given by an association that is anxious to give it to the Government. All that is desired is to have the Government make a survey of the important battle fields where the various generals and soldiers fought.

I ask unanimous consent for the immediate consideration of the bill.

Mr. GLASS. I shall not object if it does not lead to debate.

Mr. SWANSON. If it leads to any debate I shall withdraw it at once.

Mr. CURTIS. I will ask the Senator if the bill is recommended by the department?

Mr. SWANSON. It is recommended by the department. It has been amended as the department recommended.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill? The Chair hears none.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 5864) to provide for the study, investigation, and survey, for commemorative purposes, of battle fields in the vicinity of Richmond, Va., which was read, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to have made studies, investigations, and surveys of the battle fields in the vicinity of Richmond, in the Commonwealth of Virginia, including the battle field of Cold Harbor, Va., for the purpose of preparing and submitting to Congress a general plan and such detailed project as may be required for properly commemorating such battle fields and other adjacent points of historical and military interest, in accordance with the classification set forth in House Report No. 1071, Sixty-ninth Congress, first session.

SEC. 2. To enable the Secretary of War to carry out the provisions of this act, including the payment of mileage of officers of the Army and actual expenses of civilian employees traveling on duty in connection with the studies, investigations, and surveys, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $6,800, or so much thereof as may be necessary, to be expended for the purposes of this act.

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

EXECUTIVE SESSION

Mr. CURTIS. Mr. President, does the Senator from Virginia desire to proceed further with the market bill this evening?

Mr. GLASS. No, Mr. President.

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 25 minutes spent in executive session the doors were reopened.

SLAVERY CONVENTION SIGNED AT GENEVA ON SEPTEMBER 25, 1926

In executive session this day, the following convention was ratified and, on motion of Mr. BORAH, the injunction of secrecy was removed therefrom and from the resolution agreed to in connection therewith:

To the Senate:

To the end that I may receive the advice and consent of the Senate to accession by this Government, I transmit herewith a certified copy of the slavery convention signed at Geneva on September 25, 1926.

I further transmit for the information of the Senate a report from the Secretary of State recommending that the slavery convention be acceded to by this Government.

I concur in the recommendation made by the Secretary of State.

CALVIN COOLIDGE.

THE WHITE HOUSE, *May 22, 1928.*

The PRESIDENT:

The undersigned, the Secretary of State, has the honor to lay before the President, with a view to its transmission to the Senate to receive the advice and consent of that body to accession by this Government, if his judgment approve thereof, a certified copy of the slavery convention signed at Geneva on September 25, 1926.

There are 36 signatories to the slavery convention which has been ratified or acceded to by Australia, Austria, Belgium, the British Empire, Bulgaria, Denmark, Egypt, Finland, Haiti, Hungary, India, Latvia, Monaco, the Netherlands, New Zealand, Nicaragua, Norway, Portugal, Spain, South Africa, Sweden, and the Sudan.

The convention was not signed on behalf of the United States. On May 19, 1927, however, the secretary general of the League of Nations addressed a note to the Government of the United States in accordance with article 11 of the convention which provides that the secretary general shall bring the convention to the notice of States which have not signed it, including States which are not members of the League of Nations, and invite them to accede thereto.

In article 11 of the convention signed at St. Germain en Laye on September 10, 1919, revising the general act of Berlin of February 26, 1885, and the general act and declaration of Brussels of July 2, 1890, the contracting parties agreed that they would endeavor to secure the complete suppression of slavery in all its forms and of the slave trade by land and sea. The United States is a party to the general act of Brussels of July 2, 1890, for the repression of the African slave trade and is a signatory of but has not ratified the revising convention of September 10, 1919.

The purpose of the convention herewith submitted is to find a means for giving practical effect throughout the world to the intention of the contracting parties to suppress the slave trade and slavery as expressed in respect of certain territories in Africa in the international acts of earlier date. It embraces an undertaking on their part to take appropriate measures in their respective territories to carry out this intention and likewise to take all necessary measures to prevent compulsory or enforced labor from developing into conditions analogous to slavery.

By a provision in article 3 the high contracting parties undertake to negotiate as soon as possible a general convention with regard to the slave trade, which will give them rights and impose upon them duties of the same nature as those provided for in certain articles of the convention for the supervision of the international trade in arms and ammunition and in implements of war, signed at Geneva on June 17, 1925. The latter convention was submitted to the Senate by the President on January 12, 1926, with a view to receiving the advice and consent of that body to ratification, but has not yet been acted upon by the Senate.

Articles 7, 10, 11, and 12 of the slavery convention contain certain references to the League of Nations. Under article 7, the parties to the convention undertake to communicate to the secretary general of the League of Nations any laws and regulations which they may enact with a view to the application of the provisions of the convention. Article 10 provides that notices of denunciation of the convention shall be given in writing to the secretary general of the League of Nations, who will communicate certified copies to other parties. Article 11 provides that States desiring to accede to the convention shall transmit their instruments of accession to the secretary general, that they shall be deposited in the archives of the league, and that the secretary general shall transmit certified copies to the other parties to the convention. Article 12 provides that instruments of ratification of the convention shall be deposited in the office of the secretary general. As the functions exercised by the secretary general of the League of Nations under these articles are merely those of a depository and of a transmitting agency, it is not considered that it would be necessary that accession to the convention by the United States be made subject to a reservation indicating the position of this Government with respect to the league. If, however, the Senate should consider that a reservation on this point is desirable one might be made.

Considering that the purposes sought to be attained by the slavery convention are in accord with modern thought and humane measures taken by civilized peoples with a view to the suppression of slavery and conditions analogous to slavery, it is believed that the United States should cooperate with other powers in the effort to eradicate these evils throughout the world, and that its cooperation might well be expressed through accession to the convention. Accordingly, it is recommended that, if this course meets with approval, the Senate be requested

to take suitable action advising and consenting to accession on the part of the United States to the slavery convention of September 25, 1926.

Respectfully submitted.

FRANK B. KELLOGG.

DEPARTMENT OF STATE,
Washington, May 22, 1928.

SLAVERY CONVENTION

Albania, Germany, Austria, Belgium, the British Empire, Canada, the Commonwealth of Australia, the Union of South Africa, the Dominion of New Zealand, and India, Bulgaria, China, Colombia, Cuba, Denmark, Spain, Estonia, Abyssinia, Finland, France, Greece, Italy, Latvia, Liberia, Lithuania, Norway, Panama, the Netherlands, Persia, Poland, Portugal, Rumania, the Kingdom of the Serbs, Croats and Slovenes, Sweden, Czechoslovakia and Uruguay,

Whereas the signatories of the General Act of the Brussels Conference of 1889–90 declared that they were equally animated by the firm intention of putting an end to the traffic in African slaves;

Whereas the signatories of the Convention of Saint-Germain-en-Laye of 1919 to revise the General Act of Berlin of 1885 and the General Act and Declaration of Brussels of 1890 affirmed their intention of securing the complete suppression of slavery in all its forms and of the slave trade by land and sea;

Taking into consideration the report of the Temporary Slavery Commission appointed by the Council of the League of Nations on June 12th, 1924;

Desiring to complete and extend the work accomplished under the Brussels Act and to find a means of giving practical effect throughout the world to such intentions as were expressed in regard to slave trade and slavery by the signatories of the Convention of Saint-Germain-en-Laye, and recognising that it is necessary to conclude to that end more detailed arrangements than are contained in that Convention;

Considering, moreover, that it is necessary to prevent forced labor from developing into conditions analogous to slavery,

Have decided to conclude a Convention and have accordingly appointed as their Plenipotentiaries:

THE PRESIDENT OF THE SUPREME COUNCIL OF ALBANIA:
Dr. D. Dino, Envoy Extraordinary and Minister Plenipotentiary to his Majesty the King of Italy.

THE PRESIDENT OF THE GERMAN REICH:
Dr. Carl von Schubert, Secretary of State for Foreign Affairs.

THE PRESIDENT OF THE FEDERAL AUSTRIAN REPUBLIC:
M. Emerich von Pflügl, Envoy Extraordinary and Minister Plenipotentiary, Representative of the Federal Government accredited to the League of Nations.

HIS MAJESTY THE KING OF THE BELGIANS:
M. L. de Brouckère, Member of the Senate, First Delegate of Belgium to the Seventh Ordinary Session of the Assembly of the League of Nations.

HIS MAJESTY THE KING OF THE UNITED KINGDOM OF GREAT BRITAIN AND IRELAND AND OF THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA:
The Right Honorable Viscount Cecil of Chelwood, K. C., Chancellor of the Duchy of Lancaster.

FOR THE DOMINION OF CANADA:
The Right Honorable Sir George E. Foster, G. C. M. G., P. C., L. L. D., Senator, Member of the King's Privy Council for Canada.

FOR THE COMMONWEALTH OF AUSTRALIA:
The Honorable J. G. Latham, C. M. G., K. C., M. P., Attorney-General of the Commonwealth.

FOR THE UNION OF SOUTH AFRICA:
Mr. Jacobus Stephanus Smit, High Commissioner of the Union in London.

FOR THE DOMINION OF NEW ZEALAND:
The Honorable Sir James Parr, K. C. M. G., High Commissioner in London.

AND FOR INDIA:
Sir William Henry Hoare Vincent, G. C. I. E., K. C. S. I., Member of the Council of the Secretary of State for India, former Member of the Executive Council of the Governor-General of India.

HIS MAJESTY THE KING OF THE BULGARIANS:
M. D. Mikoff, Chargé d'Affaires at Berne, Permanent representative of the Bulgarian Government accredited to the League of Nations.

THE CHIEF EXECUTIVE OF THE CHINESE REPUBLIC:
M. Chao-Hsin Chu, Envoy Extraordinary and Minister Plenipotentiary at Rome.

THE PRESIDENT OF THE REPUBLIC OF COLOMBIA:
Dr. Francisco José Urrutia, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council, Representative of Colombia on the Council of the League of Nations.

THE PRESIDENT OF THE REPUBLIC OF CUBA:
M. A. de Agüero y Bethancourt, Envoy Extraordinary and Minister Plenipotentiary to the President of the German Reich and to the President of the Austrian Federal Republic.

HIS MAJESTY THE KING OF DENMARK AND ICELAND:
M. Herluf Zahle, Envoy Extraordinary and Minister Plenipotentiary to the President of the German Reich.

HIS MAJESTY THE KING OF SPAIN:
M. M. Lopez Roberts, Marquis de la Torrehermosa, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

THE PRESIDENT OF THE ESTONIAN REPUBLIC:
General Johan Laidoner, Member of Parliament, President of the Committee for Foreign Affairs and National Defense.

HER MAJESTY THE EMPRESS AND QUEEN OF THE KINGS OF ABYSSINIA AND HIS IMPERIAL AND ROYAL HIGHNESS THE PRINCE REGENT AND HEIR TO THE THRONE:
Dedjazmatch Guetatchou, Minister of the Interior;
Lidj Makonnen Endelkatchou;
Kentiba Gebrou;
Ato Tasfae, Secretary of the Imperial League of Nations Department at Addis-Abeba.

THE PRESIDENT OF THE REPUBLIC OF FINLAND:
M. Rafael W. Erich, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council, Permanent Delegate of Finland accredited to the League of Nations.

THE PRESIDENT OF THE FRENCH REPUBLIC:
Count B. Clauzel, Minister Plenipotentiary, Head of the French League of Nations Department.

THE PRESIDENT OF THE HELLENIC REPUBLIC:
M. D. Caclamanos, Envoy Extraordinary and Minister Plenipotentiary to His Britannic Majesty.
M. V. Dendramis, Chargé d'Affaires at Berne, Permanent Delegate accredited to the League of Nations.

HIS MAJESTY THE KING OF ITALY:
Professor Vittorio Scialoja, Minister of State, Senator, Representative of Italy on the Council of the League of Nations.

THE PRESIDENT OF THE REPUBLIC OF LATVIA:
M. Charles Duzmans, Permanent Representative accredited to the League of Nations.

THE PRESIDENT OF THE REPUBLIC OF LIBERIA:
Baron Rodolphe A. Lehmann, Envoy Extraordinary and Minister Plenipotentiary to the President of the French Republic, Permanent Delegate accredited to the League of Nations.

PRESIDENT OF THE REPUBLIC OF LITHUANIA:
M. V. Sidzikauskas, Envoy Extraordinary and Minister Plenipotentiary to the President of the German Reich.

HIS MAJESTY THE KING OF NORWAY:
Dr. Fridtjof Nansen, Professor at the University of Oslo.

THE PRESIDENT OF THE REPUBLIC OF PANAMA:
Dr. Eusebio A. Morales, Professor of Law at the Panama National Faculty, Finance Minister.

HER MAJESTY THE QUEEN OF THE NETHERLANDS:
Jonkheer W. F. van Lennep, Chargé d'Affaires a. i. of the Netherlands at Berne.

HIS MAJESTY THE EMPEROR OF PERSIA:
His Highness Prince Arfa, Ambassador, Delegate of Persia accredited to the League of Nations.

THE PRESIDENT OF THE POLISH REPUBLIC:
M. Auguste Zaleski, Minister for Foreign Affairs.

THE PRESIDENT OF THE REPUBLIC OF PORTUGAL:
Dr. A. de Vasconcellos, Minister Plenipotentiary, in charge of the League of Nations Department at the Ministry for Foreign Affairs.

HIS MAJESTY THE KING OF RUMANIA:
M. N. Titulesco, Professor at the University of Bucharest, Envoy Extraordinary and Minister Plenipotentiary to His Britannic Majesty, Representative of Rumania on the Council of the League of Nations.

HIS MAJESTY THE KING OF THE SERBS, CROATS AND SLOVENES:
Dr. M. Jovanovitch, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council, Permanent Delegate accredited to the League of Nations.

HIS MAJESTY THE KING OF SWEDEN:
M. Einar Hennings, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC:

M. Ferdinand Veverka, Envoy Extraordinary and Minister Plenipotentiary to the Swiss Federal Council.

THE PRESIDENT OF THE REPUBLIC OF URUGUAY:

M. B. Fernandez y Medina, Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Spain.

Who, having communicated their full powers, have agreed as follows:

ARTICLE 1

For the purpose of the present Convention, the following definitions are agreed upon:

(1) Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

(2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.

ARTICLE 2

The High Contracting Parties undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, so far as they have not already taken the necessary steps:

(a) To prevent and suppress the slave trade;

(b) To bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms.

ARTICLE 3

The High Contracting Parties undertake to adopt all appropriate measures with a view to preventing and suppressing the embarkation, disembarkation and transport of slaves in their territorial waters and upon all vessels flying their respective flags.

The High Contracting Parties undertake to negotiate as soon as possible a general Convention with regard to the slave trade which will give them rights and impose upon them duties of the same nature as those provided for in the Convention of June 17th, 1925, relative to the International Trade in Arms (Articles 12, 20, 21, 22, 23, 24, and paragraphs 3, 4 and 5 of Section II of Annex II), with the necessary adaptations, it being understood that this general Convention will not place the ships (even of small tonnage) of any High Contracting Parties in a position different from that of the other High Contracting Parties.

It is also understood that, before or after the coming into force of this general Convention, the High Contracting Parties are entirely free to conclude between themselves, without, however, derogating from the principles laid down in the preceding paragraph, such special agreements as, by reason of their peculiar situation, might appear to be suitable in order to bring about as soon as possible the complete disappearance of the slave trade.

ARTICLE 4

The High Contracting Parties shall give to one another every assistance with the object of securing the abolition of slavery and the slave trade.

ARTICLE 5

The High Contracting Parties recognise that recourse to compulsory or forced labor may have grave consequences and undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, to take all necessary measures to prevent compulsory or forced labor from developing into conditions analogous to slavery.

It is agreed that:

(1) Subject to the transitional provisions laid down in paragraph (2) below, compulsory or forced labor may only be exacted for public purposes.

(2) In territories in which compulsory or forced labor for other than public purposes still survives, the High Contracting Parties shall endeavor progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labor exists, this labor shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the laborers from their usual place of residence.

(3) In all cases, the responsibility for any recourse to compulsory or forced labor shall rest with the competent central authorities of the territory concerned.

ARTICLE 6

Those of the High Contracting Parties whose laws do not at present make adequate provision for the punishment of infractions of laws and regulations enacted with a view to giving effect to the purposes of the present Convention undertake to adopt the necessary measures in order that severe penalties may be imposed in respect of such infractions.

ARTICLE 7

The High Contracting Parties undertake to communicate to each other and to the Secretary-General of the League of Nations any laws and regulations which they may enact with a view to the application of the provisions of the present Convention.

ARTICLE 8

The High Contracting Parties agree that disputes arising between them relating to the interpretation or application of this Convention shall, if they can not be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case either or both of the States Parties to such a dispute should not be parties to the Protocol of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each State, either to the Permanent Court of International Justice or to a court of arbitration constituted in accordance with the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to some other court of arbitration.

ARTICLE 9

At the time of signature or of ratification or of accession, any High Contracting Party may declare that its acceptance of the present Convention does not bind some or all of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage in respect of all or any provisions of the Convention; it may subsequently accede separately on behalf of any one of them or in respect of any provision to which any one of them is not a party.

ARTICLE 10

In the event of a High Contracting Party wishing to denounce the present Convention, the denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will at once communicate a certified true copy of the notification to all the other High Contracting Parties, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying State, and one year after the notification has reached the Secretary-General of the League of Nations.

Denunciation may also be made separately in respect of any territory placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage.

ARTICLE 11

The present Convention, which will bear this day's date and of which the French and English texts are both authentic, will remain open for signature by the States Members of the League of Nations until April 1st, 1927.

The Secretary-General of the League of Nations will subsequently bring the present Convention to the notice of States which have not signed it, including States which are not Members of the League of Nations, and invite them to accede thereto.

A State desiring to accede to the Convention shall notify its intention in writing to the Secretary-General of the League of Nations and transmit to him the instrument of accession, which shall be deposited in the archives of the League.

The Secretary-General shall immediately transmit to all the other High Contracting Parties a certified true copy of the notification and of the instrument of accession, informing them of the date on which he received them.

ARTICLE 12

The present Convention will be ratified and the instruments of ratification shall be deposited in the office of the Secretary-General of the League of Nations. The Secretary-General will inform all the High Contracting Parties of such deposit.

The Convention will come into operation for each State on the date of the deposit of its ratification or of its accession.

In faith whereof the Plenipotentiaries have signed the present Convention.

DONE at Geneva the twenty-fifth day of September, one thousand nine hundred and twenty-six, in one copy, which will be deposited in the archives of the League of Nations. A certified copy shall be forwarded to each signatory State.

ALBANIA	D. DINO
GERMANY	DR. CARL VON SCHUBERT
AUSTRIA	EMERICH PFLÜGL
BELGIUM	L. DE BROUCKERE

BRITISH EMPIRE	I declare that my signature does not bind India or any British Dominion which is a separate member of the League of Nations and does not separately sign or accede to the Convention. CECIL
CANADA	GEORGE EULAS FOSTER
AUSTRALIA	J. G. LATHAM
UNION OF SOUTH AFRICA	J. S. SMIT
NEW ZEALAND	J. C. PARR
INDIA	Under the terms of Article 9 of this Convention I declare that my signature is not binding as regards the enforcement of the provisions of Article 2, sub-section (b), Articles 5, 6 and 7 of this Convention upon the following territories; namely, in Burma: the Naga tracts lying West and South of the Hukawng Valley, bounded on the North and West by the Assam Boundary, on the East by the Nanphuk River and on the South by the Singaling Hkamti and the Somra Tracts; in Assam, the Sadiya and Balipara Frontier Tracts, the tribal area to the East of the Naga Hills District, up to the Burma boundary, and a small tract in the South of the Lushai Hills District; nor on the territories in India of any Prince or Chief under the suzerainty of His Majesty. I also declare that my signature to the Convention is not binding in respect of Article 3 in so far as that Article may require India to enter into any Convention whereby vessels, by reason of the fact that they are owned, fitted out or commanded by Indians, or of the fact that one-half of the crew is Indian, are classified as native vessels, or are denied any privilege, right or immunity enjoyed by similar vessels of other States Signatories of the Covenant or are made subject to any liability or disability to which similar ships of such other States are not subject. W. H. VINCENT
BULGARIA	D. MIKOFF
CHINA	CHAO-HSIN CHU
COLOMBIA	FRANCISCO JOSÉ URRUTIA
CUBA	ARISTIDES DE AGÜERO BETHANCOURT
DENMARK	HERLUF ZAHLE
SPAIN	For Spain and the Spanish Colonies, with the exception of the Spanish Protectorate of Morocco. MAURICIO LOPEZ ROBERTS MARQUIS DE LA TORREHERMOSA
ESTONIA	J. LAIDONER
ABYSSINIA	GUETATCHOU MAKONNEN KENTIBA GERBROU ATO TASFAE
FINLAND	RAFAEL ERICH
FRANCE	B. CLAUZEL
GREECE	D. CACLAMANOS V. DENDRAMIS
ITALY	VITTORIO SCIALOJA
LATVIA	CHARLES DUZMANS
LIBERIA	Subject to ratification by the Liberian Senate. BARON R. LEHMANN
LITHUANIA	VENCESLAS SIDZIKAUSKAS
NORWAY	FRIDTJOF NANSEN
PANAMA	EUSEBIO A. MORALES
NETHERLANDS	W. F. VAN LENNEP
PERSIA	*Ad referendum* and interpreting Article 3 as without power to compel Persia to bind herself by any arrangement or convention which would place her ships of whatever tonnage in the category of native vessels provided for by the Convention on the Trade in Arms. PRINCE ARFA
POLAND	AUGUSTE ZALESKI
PORTUGAL	AUGUSTO DE VASCONCELLO
RUMANIA	N. TITULESCO
KINGDOM OF THE SERBS, CROATS AND SLOVENES	M. JOVANOVITCH
SWEDEN	EINAR HENNINGS
CZECHOSLOVAKIA	FERDINAND VEVERKA
URUGUAY	B. FERNANDEZ Y MEDINA

Resolved (*two-thirds of the Senators present concurring therein*), That the Senate advise and consent to the ratification of Executive O, Seventieth Congress, first session, a convention to suppress the slave trade and slavery, signed at Geneva on September 25, 1926, subject to the following reservation:

That the Government of the United States, adhering to its policy of opposition to forced or compulsory labor except as a punishment for crime, of which the person concerned has been duly convicted, adheres to the convention except as to the first subdivision of the second paragraph of Article V, which reads as follows:

(1) Subject to the transitional provisions laid down in paragraph (2) below compulsory or forced labor may only be exacted for public purposes.

RECESS

Mr. CURTIS. In accordance with the order heretofore entered, I move that the Senate take a recess until 8 o'clock p. m.

The motion was agreed to; and (at 5 o'clock and 10 minutes p. m.) the Senate took a recess, the recess being, under the order previously entered, until 8 o'clock p. m.

EVENING SESSION

The Senate reassembled at 8 o'clock p. m., on the expiration of a recess.

The PRESIDING OFFICER (Mr. FESS in the chair). The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Farrell, its enrolling clerk, announced that the House had passed a bill (H. R. 15655) to provide for the study, investigation, and survey, for commemorative purposes, of battle fields in the vicinity of Richmond, Va., in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolutions of the Senate:

S. 2068. An act for the relief of certain officers of the Dental Corps of the United States Navy;

S. 2206. An act to amend section 260 of the Judicial Code, as amended;

S. 3198. An act to amend the act of March 3, 1915, granting double pension for disability from aviation duty, Navy or Marine Corps, by inserting the word "Army," so as to read: "Army, Navy, and Marine Corps";

S. 3590. An act to amend section 110 of the Judicial Code;

S. 3770. An act authorizing the Federal Power Commission to issue permits and licenses on Fort Apache and White Mountain Indian Reservations, Ariz.;

S. 4063. An act to amend certain sections of the teachers' salary act, approved June 4, 1924, and for other purposes;

S. 4087. An act authorizing the use of certain land owned by the United States in the District of Columbia for street purposes;

S. 4125. An act to amend chapter 15 of the Code of Law for the District of Columbia, and for other purposes;

S. 4451. An act to amend the act entitled "An act authorizing Roy Clippinger, Ulys Pyle, Edgar Leathers, Groves K. Flescher,

Carmen Flescher, their heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Wabash River at or near McGregors Ferry in White County, Ill," approved May 1, 1928;

S. 4691. An act to extend the provisions of section 18a of an act approved February 25, 1920 (41 Stat. 437), to certain lands in Utah, and for other purposes;

S. 4981. An act to include in the credit for time served allowed substitute clerks in first and second class post offices and letter carriers in the City Delivery Service time served as special-delivery messengers;

S. 5014. An act authorizing the Secretary of the Interior to issue to the city of Bozeman, Mont., a patent to certain public lands;

S. 5073. An act to amend the act of Congress of June 26, 1906, entitled "An act for the protection of the fisheries of Alaska, and for other purposes";

S. 5181. An act to amend section 4 of the act of June 15, 1917 (40 Stat. 224; sec. 241, title 22, U. S. C.);

S. 5193. An act to authorize the President of the United States to appoint an additional judge of the District Court of the United States for the Middle District of the State of Pennsylvania;

S. 5621. An act to repeal paragraphs 127 and 128 of the act entitled "An act to discontinue certain reports now required by law to be made to Congress," approved May 29, 1928;

S. J. Res. 111. Joint resolution authorizing the acceptance of title to certain lands in the counties of Benton and Walla Walla, Wash., adjacent to the Columbia River bird refuge in said State established in accordance with the authority contained in Executive Order No. 4501, dated August 28, 1926; and

S. J. Res. 206. Joint resolution to authorize the President of the United States to appoint a Yellowstone National Park Boundary Commission to inspect the areas involved in the proposed adjustment of the southeast, south, and southwest boundaries of the Yellowstone National Park.

APPORTIONMENT OF REPRESENTATIVES

The PRESIDING OFFICER. In accordance with the unanimous-consent agreement previously entered into, the Chair lays before the Senate House bill 11725, the business of the evening session.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 11725) for the apportionment of Representatives in Congress.

Mr. STEPHENS. 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:

Barkley	Dale	Johnson	Stephens
Bayard	Dill	Jones	Thomas, Idaho
Bingham	Edwards	Norris	Trammell
Black	Fess	Phipps	Vandenberg
Blaine	Frazier	Pine	Wagner
Blease	George	Robinson, Ind.	Walsh, Mass.
Bratton	Glass	Schall	Warren
Caraway	Goff	Sheppard	Waterman
Copeland	Hayden	Smith	Watson
Curtis	Heflin	Steck	

Mr. SCHALL. I wish to announce that my colleague [Mr. SHIPSTEAD] is very ill with the flu and is detained from the Senate for that reason.

The PRESIDING OFFICER. Thirty-nine Senators having answered to their names, a quorum is not present. The clerk will call the names of the absentees.

The legislative clerk called the names of the absent Senators.

Mr. BROUSSARD, Mr. COUZENS, Mr. GOULD, Mr. HASTINGS, Mr. MCMASTER, Mr. NEELY, and Mr. STEIWER entered the Chamber and answered to their names.

Mr. VANDENBERG. Mr. President, under subdivision 3 of Rule V, I move that the Senate direct the Sergeant at Arms to request the attendance of absent Senators.

The PRESIDING OFFICER. Without objection, that order will be made.

Mr. BLACK. I move, as a substitute, that the Senate take a recess until to-morrow at 11 o'clock.

The PRESIDING OFFICER. The Chair will declare the motion of the Senator from Alabama out of order, because no motion other than a motion to adjourn is in order until a quorum shall have appeared.

Mr. BLACK. Then, I move, as a substitute, that the Senate adjourn until 11 o'clock to-morrow.

Mr. CURTIS. Mr. President, there is already a unanimous-consent agreement that when the Senate concludes its work to-day it shall recess until 11 o'clock to-morrow.

The PRESIDING OFFICER. A motion to adjourn is always in order.

Mr. CURTIS. Not in the face of a unanimous-consent agreement.

Mr. HEFLIN. Mr. President, a parliamentary inquiry. If the Senate should adjourn and the unanimous-consent order already having been registered when there was a quorum present that we would take a recess until 11 o'clock to-morrow, I rather think that the motion to adjourn would have the effect of winding up the business of the night and we would meet under the agreement to take a recess in the morning. That would be the effect of it.

Mr. CURTIS. Mr. President, in view of the unanimous-consent agreement, a motion to take a recess is in order.

Mr. HEFLIN. Mr. President, we have already adopted an order that, beginning to-morrow, the Senate will meet at the hour of 11 o'clock.

The PRESIDING OFFICER. The Senate has agreed to recess until to-morrow at 11 o'clock at the conclusion of its business to-day.

Mr. HEFLIN. But prior to that agreement I understand that we had agreed that, beginning to-morrow, the Senate would meet at 11 o'clock, and the order to-day was that when the Senate recessed it would recess until 11 o'clock to-morrow; so that there are two orders to that effect.

Mr. JOHNSON. Mr. President, the unanimous-consent agreement, as I recall it, provides that when the Senate concludes its business to-night it shall recess until 11 o'clock to-morrow morning.

The PRESIDING OFFICER. The Senator from California is correct.

Mr. JOHNSON. Very well. Now a motion to adjourn can not abrogate in that fashion the unanimous-consent agreement. I submit, therefore, that the motion to adjourn is not in order.

Mr. BLACK. Mr. President——

The PRESIDING OFFICER. The Chair will rule that a motion to adjourn, or under the unanimous-consent agreement, a motion to take a recess is in order. Without objection, the order will be made directing the Sergeant at Arms to request the presence of absent Senators.

Mr. BLACK. Mr. President——

The PRESIDING OFFICER. All debate is out of order until a quorum shall have been developed.

Mr. CARAWAY. What if we shall never develop a quorum?

The PRESIDING OFFICER. At 11 o'clock p. m. then, the Senate will take a recess.

Mr. NORRIS. Mr. President, I move that the Senate take a recess until 11 o'clock p. m.

The PRESIDING OFFICER. The Chair declares that motion to be out of order.

Mr. NORRIS. Then will the Chair tell us how we can quit? [Laughter.]

Mr. BLACK. Does that mean we shall have to remain here until 11 o'clock?

The PRESIDING OFFICER. The Senate will be in order and will let the Chair read the rule, which is as follows:

2. If, at any time during the daily sessions of the Senate, a question shall be raised by any Senator as to the presence of a quorum, the Presiding Officer shall forthwith direct the Secretary to call the roll and shall announce the result, and these proceedings shall be without debate.

3. Whenever upon such roll call it shall be ascertained that a quorum is not present, a majority of the Senators present may direct the Sergeant-at-Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate; and pending its execution, and until a quorum shall be present, no debate nor motion, except to adjourn, shall be in order.

Mr. NORRIS. Then, I move that the Senate adjourn, if that will suit the Chair any better. That is in order according to the Chair's own ruling.

Mr. DILL. Mr. President, I do not think so. The Senate by unanimous consent agreed to remain in session from 8 o'clock to 11 o'clock.

Mr. NORRIS. But we did not agree to stay here without a quorum.

Mr. DILL. The Senate agreed to stay here until 11 o'clock.

Mr. HEFLIN. To stay here not later than 11 o'clock.

The PRESIDING OFFICER. All debate is out of order.

Mr. CURTIS. Mr. President, under similar circumstances, a good many years ago, when the question arose whether less than a quorum could take a recess, the then Presiding Officer, Mr. Hamlin, held that a motion to recess was in order though a quorum was not present. Senators will find that decision on page 503 of Gilfry's Precedents.

Mr. HEFLIN. I make the point of order that since the Chair has ruled that a motion to adjourn is not in order, there is only one other motion in order, and that is the motion to recess until 11 o'clock to-morrow, and such a motion is in keeping with the order already entered by the Senate.

The PRESIDING OFFICER. The Chair will ask the Senator from Kansas again to give the page of the citation which he has made.

Mr. CURTIS. It will be found on page 503 of Gilfry's Precedents, as follows:

APRIL 18, 1864.

On the question of a recess, Vice President Hamlin said: The impression of the Chair is that a less number than a quorum can take a recess.

It has been ordered by unanimous consent that at the conclusion of the business of the Senate to-day a recess shall be taken until 11 o'clock a. m. to-morrow. By reason of this fact, it seems to me that a motion to take a recess is in order.

The PRESIDING OFFICER. The Chair has the precedent before him, and upon that basis will hold that a motion to recess is in order.

Mr. SMITH. I move that the Senate take a recess.

Mr. NORRIS. Mr. President, a motion to recess has been made. Does the Chair hold now that it is in order?

The PRESIDING OFFICER. The Chair holds that a motion to take a recess is in order.

Mr. VANDENBERG. Mr. President, a parliamentary inquiry, Am I entitled to ask for a roll call upon that motion?

The PRESIDING OFFICER. The Chair so holds.

Mr. VANDENBERG. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HEFLIN. That motion is that of my colleague [Mr. BLACK] that the Senate take a recess until 11 o'clock.

Mr. BLACK. I made a motion to adjourn before the motion to take a recess was made.

The PRESIDING OFFICER. The Chair will hold under the rules of the Senate that a motion to take a recess is in order because of the precedent back in 1864. The clerk will call the roll on the motion to take a recess.

The Chief Clerk proceeded to call the roll.

Mr. BLEASE (when Mr. TYSON's name was called). I wish to announce that the Senator from Tennessee [Mr. TYSON] is absent on account of illness.

The roll call was concluded.

Mr. BAYARD (after having voted in the affirmative). I have a general pair with the Senator from Pennsylvania [Mr. REED]. In his absence I transfer that pair to the senior Senator from Mississippi [Mr. HARRISON] and allow my vote to stand.

Mr. CURTIS (after having voted in the negative). I have a general pair with the Senator from Arkansas [Mr. ROBINSON]. I transfer that pair to the Senator from Massachusetts [Mr. GILLETT], and let my vote stand.

The result was announced—yeas 11, nays 31, as follows:

YEAS—11

Barkley	Blaine	Dale	Smith
Bayard	Blease	Glass	Stephens
Black	Bratton	Heflin	

NAYS—31

Bingham	George	Phipps	Trammell
Copeland	Goff	Pine	Vandenberg
Couzens	Hastings	Robinson, Ind.	Wagner
Curtis	Hayden	Schall	Walsh, Mass.
Dill	Johnson	Sheppard	Warren
Edwards	Jones	Steck	Waterman
Fess	McMaster	Steiwer	Watson
Frazier	Neely	Thomas, Idaho	

NOT VOTING—53

Ashurst	Gould	McNary	Sackett
Borah	Greene	Mayfield	Shipstead
Brookhart	Hale	Metcalf	Shortridge
Broussard	Harris	Moses	Simmons
Bruce	Harrison	Norbeck	Smoot
Burton	Hawes	Norris	Swanson
Capper	Howell	Nye	Thomas, Okla.
Caraway	Kendrick	Oddie	Tydings
Deneen	Keyes	Overman	Tyson
Edge	King	Pittman	Walsh, Mont.
Fletcher	La Follette	Ransdell	Wheeler
Gerry	Larrazolo	Reed, Mo.	
Gillett	McKellar	Reed, Pa.	
Glenn	McLean	Robinson, Ark.	

So the Senate refused to take a recess.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan [Mr. VANDENBERG].

Mr. BLACK. I call for the yeas and nays.

Mr. COUZENS. What is the motion, Mr. President?

The PRESIDING OFFICER. That the Sergeant at Arms be directed to request the presence of absent Members.

Mr. HEFLIN. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. NEELY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NEELY. What is the question?

The PRESIDING OFFICER. The question is on the motion to authorize the Sergeant at Arms to request the presence of the absent Members. On that question the yeas and nays have been demanded and ordered. The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. WARREN (when his name was called). I have a general pair with the junior Senator from North Carolina [Mr. OVERMAN]. I transfer that pair to the senior Senator from Vermont [Mr. GREENE], and will vote. I vote "yea."

The roll call was concluded.

Mr. BAYARD (after having voted in the affirmative). I have a general pair with the Senator from Pennsylvania [Mr. REED]. He is absent, but I am informed that if he were present he would vote as I have voted. I shall, therefore, let my vote stand.

Mr. CURTIS (after having voted in the affirmative). Making the same announcement as on the previous roll call, I will permit my vote to stand.

Mr. JONES. I desire to announce the following general pairs:

The Senator from Ohio [Mr. BURTON] with the Senator from North Carolina [Mr. SIMMONS];

The Senator from New Hampshire [Mr. MOSES] with the Senator from Louisiana [Mr. BROUSSARD]; and

The Senator from Wisconsin [Mr. LA FOLLETTE] with the Senator from Tennessee [Mr. MCKELLAR].

The result was announced—yeas 44, nays 2, as follows:

YEAS—44

Barkley	Dill	Johnson	Steck
Bayard	Edwards	Jones	Steiwer
Bingham	Fess	McMaster	Stephens
Black	Frazier	Neely	Thomas, Idaho
Blaine	George	Norris	Trammell
Bratton	Glass	Phipps	Vandenberg
Broussard	Goff	Pine	Wagner
Caraway	Gould	Robinson, Ind.	Walsh, Mass.
Copeland	Hastings	Schall	Warren
Couzens	Hayden	Sheppard	Waterman
Curtis	Heflin	Smith	Watson

NAYS—2

Blease	Dale

NOT VOTING—49

Ashurst	Hale	Mayfield	Shipstead
Borah	Harris	Metcalf	Shortridge
Brookhart	Harrison	Moses	Simmons
Bruce	Hawes	Norbeck	Smoot
Burton	Howell	Nye	Swanson
Capper	Kendrick	Oddie	Thomas, Okla.
Deneen	Keyes	Overman	Tydings
Edge	King	Pittman	Tyson
Fletcher	La Follette	Ransdell	Walsh, Mont.
Gerry	Larrazolo	Reed, Mo.	Wheeler
Gillett	McKellar	Reed, Pa.	
Glenn	McLean	Robinson, Ark.	
Greene	McNary	Sackett	

So Mr. VANDENBERG's motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms is directed to request the presence of the absent Senators.

Mr. NEELY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NEELY. Did the Chair's instructions to the Sergeant at Arms include a direction that he shall, if necessary, compel as well as request the presence of the absent Senators?

The PRESIDING OFFICER. No; he was only directed to request their attendance.

Mr. BLEASE. You can not arrest a Senator, under the Constitution——

Mr. NEELY. The rule provides that the Sergeant at Arms shall request, and if necessary compel, the attendance of the absent Senators.

The PRESIDING OFFICER. That comes in the form of a second motion, later on.

Mr. JOHNSON. Mr. President, will the Chair pardon me for a disagreement in that regard? The rule, if the Chair will observe, is that—

A majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate.

"Which order": The order is that the Sergeant at Arms may be directed to request, and, when necessary, to compel; and it seems to me from the context that it all ought to be in one order. I understood that the Chair had ruled that the matter should be divided, but I do not think the rule so provides. Let me repeat it:

A majority of the Senators present may direct the Sergeant at Arms to request, and, when necessary, to compel the attendance of the absent Senators, which order shall be determined without debate.

And the order, I take it, should be that the Sergeant at Arms be directed to request, and, if necessary, to compel the attendance of the absent Senators.

Mr. NEELY. Mr. President——

The PRESIDING OFFICER. The Chair will state to the Senator from California and also to the Members of the Senate generally that the practice of the body is to make the suggestion first in the form of a request; then, when the Sergeant at Arms reports that he has not succeeded, a second motion is made to compel the attendance of Senators. That is the practice under the precedents.

Mr. JOHNSON. I realize, sir, that in two previous filibusters of which I was the victim, that was the order that the Chair directed to be made—that is, that they be segregated into two different motions, and with those motions on the occasions referred to I complied; but I submit to the Chair that the rule itself apparently provides that one order shall be all that is essential. The request is made by the Sergeant at Arms, apparently. If that request is not complied with instanter, then the Sergeant at Arms invokes the authority that he has to compel the attendance of the recalcitrant Members.

The PRESIDING OFFICER. If any Senator should make a motion now to proceed to compel the attendance of absent Senators, the Chair would have to regard it in order.

Mr. VANDENBERG. Mr. President, in order to save time, I supplement the previous motion by moving that the Sergeant at Arms be directed to compel the attendance of absent Senators if they fail to respond to the request.

The PRESIDING OFFICER. The question is on the motion of the Senator from Michigan.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms is directed to compel the presence of the absent Senators.

Mr. NEELY. Mr. President, for the benefit of the Sergeant at Arms——

The PRESIDING OFFICER. Nothing is in order until a quorum is developed.

Mr. NEELY. Nothing except something that pertains to the absence of it; and that is the point to which I wish to speak.

For the benefit of the Sergeant at Arms, who may not remember the experience we had in obtaining a quorum when the Boulder Dam question was up two years ago, I call his attention to the fact that there is an appropriate form of warrant for the arrest of the absent Senators on page 4456 of the CONGRESSIONAL RECORD of the Sixty-ninth Congress, volume 4.

The PRESIDING OFFICER. The Senator from West Virginia is out of order.

Mr. NEELY. We shall have to have that warrant sooner or later, Mr. President.

At 8 o'clock and 57 minutes p. m. Mr. THOMAS of Oklahoma entered the Chamber and answered to his name.

At 9 o'clock and 3 minutes p. m. Mr. GREENE entered the Chamber and answered to his name, and a minute later Mr. ODDIE, Mr. HARRISON, and Mr. NYE entered the Chamber and answered to their names.

The PRESIDING OFFICER. Fifty-one Senators having answered to their names, there is a quorum present. The bill is as in Committee of the Whole and open to amendment.

Mr. VANDENBERG. Mr. President, I am perfectly willing to have a vote taken on the bill.

Mr. BLACK. Mr. President, I desire to submit a few remarks upon the bill. The bill under consideration is entitled "An act for the apportionment of the Representatives in Congress." This is a misnomer. It is not an act for the apportionment of Representatives in Congress. It does not even resemble an act for the apportionment of Representatives in Congress. It has been heralded by the great metropolitan press as a bill for the apportionment of Representatives.

Congress has been chastised by reason of the alleged charge that Congress has not done its duty and that the bill now under consideration will perform a function required by the Constitution which has long been neglected. If this were a fair bill designed to apportion equitably the membership in the House of Congress I would gladly support it. It is not, however, such a bill. On the contrary, it is a bill which does not make an apportionment of Representatives in Congress, but it attempts by a very inequitable and unjust method to provide a rule by which Congress can pass on more of its powers to another bureau and whittle away the constitutional privileges and prerogatives which have been vested in the legislative body of the Nation.

I desire first to refer to the method by which it is proposed that our bureaus, already rich with power, shall have some more congressional prerogatives in order that another bureau make laws for the people of the Nation—no, not make laws, but perform a more sacred function in a democracy, and that is to determine the representation which shall come from the various States of the Republic. The method which is proposed, by which the Secretary of Commerce shall be guided in this legislative function which is about to be bestowed upon him, is one which is designated as the method of major fractions.

It was a little strange to me to see the activity on the part of certain members of the great metropolitan press, which had never before evidenced any anxiety for an obedience to constitutional principles, in their intense desire to coerce the Congress into the passage of this measure, and so I concluded that it might be wise to investigate. I found the reply to the query which naturally arose in my mind in the statement of a Representative from the State of New York, in which he said:

The larger States gain more under major fractions than under equal proportions, and the smaller States get less.

When I read that statement it brought about some reflection with reference to some great controversies which have occurred in this Nation heretofore. I remembered one of the chief bones of contention in the great Constitutional Convention in Philadelphia was with reference to the Representatives of the great States and the small States. I recalled that this great controversy became so keen that on practically the last day of the session of that great convention General Washington for the first time stepped down from his position as the presiding officer of the convention and requested that more consideration be given to the rights of the people in the proportion of their legislative representatives. I recalled also that day after day and week after week there was developed in that great convention debate hinging around the proposition as to whether one State should be given an unjust privilege over and above another. Then I read again the statement of the Representative from the great State of New York, in which he said:

The larger States gain more under major fractions than under equal proportions, and the smaller States get less.

Then I looked at the bill again, and I saw a bill destined for the first time to attempt to engraft on the statute laws of America an unchanging and inflexible system if we adopted the method of major fractions. I then recalled the fact that the great President of this Republic, who first served and who has been designated as the Father of his Country, vetoed the first apportionment bill by reason of his disapproval of the method of the selection of the Representatives.

Then I concluded to look at the evidence which was before the House committee, wondering why there had been rushed over to this body, with such great momentum that it seemed impossible to stop it, this unique method not only abdicating on the part of Congress its constitutional prerogative but laying down a rule by which it was hoped the membership could be shifted from one State to another. An investigation of the record disclosed the fact, which can not be resisted, that that shifting is from the small and rural States of this great country of ours into the great States in which the metropolitan press daily sends forth its anathemas against Congress by reason of its alleged failure to perform its constitutional duty.

I found that there was a committee appointed, an advisory committee to the Census Department, in 1921, composed of some of the ablest statisticians, mathematicians, and political economists in the Nation. I found that that committee had unanimously reported to the Congress against the system of major fractions and in favor of the system known as that of equal proportions which would more nearly equalize the rights of the various States of the Union. They did it in this language:

The method of equal proportions is somewhat more favorable to the small States than is the method of major fractions. By the method of minimum range—

Another method which, it seems to me, is still fairer and more equitable to all the States in the Union—

By the method of minimum range the small States as a group get 11 more Representatives and the large States 12 fewer.

That was the statement of Doctor Wilcox. Doctor Willcox is the gentleman who recommended to the Congress the adoption of the system of major fractions.

Of course, as we go along with the exposition of the evidence which has been introduced before the House committee we shall find still more reasons for the activities of the great newspapers and the metropolitan press and for their suddenly de-

veloped yearning to impress upon Congress a duty in reference to obedience to the Constitution of the United States. Prof. Charles E. Hill, of the department of constitutional law of the George Washington University, said this to the committee:

While the method of major fractions of equal proportions would carry out the intent of the framers of the Constitution with greater exactness, that solution is, in my opinion, less easily comprehended.

In other words, Doctor Hill in his testimony stated that, in his judgment, the method of equal proportions would more nearly carry out the intent of the framers of the Constitution; but this bill which has been sent into this Chamber has not adopted the system which would more nearly carry out the intentions of the framers of the Constitution. It has abdicated the privileges and prerogatives which were granted to Congress, and, in addition to that, it has adopted a method designed and intended unduly to prejudice the rights of the small rural States of this Nation to the advantage and the benefit of the great States with teeming millions of people from all sections of the world.

Mr. HARRISON. Mr. President, may I ask the Senator a question, if it will not interrupt him?

Mr. BLACK. I yield.

Mr. HARRISON. How long was this bill before the Senate Committee on Commerce, and does the Senator know whether the experts there had a different opinion from that of advisory committee as to the course which should be pursued?

Mr. BLACK. My understanding is that there were no experts before the Senate Commerce Committee.

Mr. DALE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Vermont?

Mr. BLACK. I yield.

Mr. DALE. I can answer that question. I have the honor to be a member of the Senate Committee on Commerce. There was not one minute of time given to any hearing or consideration whatever of this bill. I was present when the matter came up. I had men with me, and had hoped there would be a hearing, but there was no attention whatever given to this bill by the Commerce Committee.

Mr. HARRISON. In the time of the Senator from Alabama, may I ask the Senator from Vermont, as a member of the Commerce Committee, if the Committee on Commerce on the part of the Senate on an important bill like this had no one before it and reported the bill out in such fashion as that?

Mr. DALE. That is absolutely correct.

Mr. VANDENBERG. Mr. President, will the Senator from Alabama yield to me?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Michigan?

Mr. BLACK. I yield.

Mr. VANDENBERG. The solicitude of my genial friend from Mississippi for the Commerce Committee and its activities is very impressive. The fact is, however, the Commerce Committee had before it all the hearings that had been had in the House of Representatives; they were available for any consultation that might be desired. So far as the iniquity of the terrible imposition called "major fractions" is concerned, the fact is that the advisory committee to the Director of the Census recommends that the system of major fractions be employed.

Mr. HARRISON. May I ask the Senator from Michigan a question before he takes his seat?

Mr. BLACK. I read what the advisory committee said.

Mr. VANDENBERG. What is the question of the Senator from Mississippi?

Mr. HARRISON. I merely wanted to inquire—I do not want to see any contention between Senators on the other side of the aisle—is the Senator from Michigan [Mr. VANDENBERG] in accord with what the Senator from Vermont [Mr. DALE] has stated with reference to there having been no hearings before the Commerce Committee on this bill?

Mr. VANDENBERG. There were no hearings before the Commerce Committee.

Mr. HARRISON. How long had the bill been before the Committee on Commerce before it was reported to the Senate?

Mr. VANDENBERG. It was reported to the Senate in 48 hours, and that is the only thoroughly honorable thing I know of in the history of the Senate for the last 10 years in connection with reapportionment.

Mr. HARRISON. This is the first time the Senator ever got on a committee, and perhaps that is the reason why he thinks the action was honorable.

Mr. BLACK. Mr. President, perhaps it was not necessary to have a hearing before the Senate committee——

Mr. DALE. Mr. President, will the Senator from Alabama yield to me?

Mr. BLACK. Let me make this suggestion. Perhaps it was not necessary to have hearings before the Senate committee, because there was on that committee my genial, affable, intellectual, and able friend from Michigan, but it so happened that there were two Members on the House committee from the city of Detroit. So far as I have been able to ascertain, there is no other committee of the House of Representatives on which there are two members from the same city. It was not necessary to have hearings; of course, my friend could have gotten his information from the two Representatives from Michigan who pressed this bill in the House, but since the statement has been made that the advisory committee recommended the system of major fractions, I shall read from the report in the House, which, as my friend from Michigan has stated, was available to the Committee on Commerce of the Senate, and see what they said about it or what was printed in the report.

VII. SUMMARY

1. It is clear that the Constitution requires that the allocation of Representatives among the several States shall be proportionate to the distribution of population. It is not equally clear that there is anything in the constitutional requirement which suggests that one of the forms in which such apportionment ratios or proportions may be expressed should be preferred to another.

2. The "method of major fractions" utilizes only one of several ways of expressing apportionment ratios. The "method of equal proportions" utilizes all of these ways without inconsistency. The latter method, therefore, has a broader basis.

3. There is no mathematical or logical ground for preferring the one form of expression of the apportionment ratio used in the method of major fractions to other forms of expression. These other forms lead, when similar processes of computation are employed, to different and therefore inconsistent results.

4. The method of major fractions logically implies preference for a special meaning which may be attached to one of the forms in which apportionment ratios may be expressed. To attach to ratios meanings which vary with the forms in which the ratios are expressed is to interpret them as something else than ratios.

5. In the "method of major fractions" the "nearness" of the ratios of Representatives and population for the several States is measured by absolute differences. The "method of equal proportions" utilizes relative differences. The relative scale is to be preferred.

That is the summary of the report of the advisory committee which was printed in the House hearings and which was available to the Senate Committee on Commerce.

Mr. VANDENBERG. Mr. President, if it will not interrupt the Senator inopportunely, I should like to ask him a question.

Mr. BLACK. I yield.

Mr. VANDENBERG. Has the system of equal proportions ever been used in any reapportionment?

Mr. BLACK. Yes.

Mr. VANDENBERG. When?

Mr. BLACK. The Senator from Michigan knows, does he not?

Mr. VANDENBERG. I am asking the Senator from Alabama.

Mr. BLACK. If the Senator from Michigan knows and wants to place the information before the Senate, he can state it.

Mr. VANDENBERG. I judge the Senator does not care to testify on the subject.

Mr. BLACK. No; I am not a witness. I am taking the evidence before the House committee.

Mr. VANDENBERG. The Senator certainly is not a witness.

Mr. COPELAND. Mr. President, will the Senator yield to me for a question?

Mr. BLACK. I yield.

Mr. COPELAND. The Senator made reference to the metropolitan newspapers and the anxiety of certain great dailies. Surely the Senator did not refer to the newspapers of New York City when he said that?

Mr. BLACK. I referred to all the newspapers in the great city districts which have been lambasting Congress for a failure to perform its constitutional functions, but which have not been so anxious about the performance of other constitutional functions.

Mr. COPELAND. I take it the Senator does not mean the newspapers of the city of New York, because the Senator will recall that in all probability the State of New York will lose one Representative under this bill.

Mr. BLACK. Yes, sir; and the State of New York will lose two Representatives if the proper method shall be adopted. It has been so testified by a Representative in Congress who spoke in behalf of this bill.

Mr. COPELAND. The Senator does not encourage me, then, to vote his way.

Mr. BLACK. I do not know. I do not think the Senator would vote against a bill simply because it would lose for his State a Representative in Congress. With my knowledge of the Senator from New York, I can not believe that he would permit the mere losing of a Representative in Congress to turn his mind from the straight and narrow path of rectitude and duty.

Mr. COPELAND. I am very much obliged to the Senator, but I wish he would answer my question. Does he mean that the New York newspapers have advocated this measure and does he refer to them as being in this thickly populated and wicked part of the United States?

Mr. BLACK. I did not say "wicked."

Mr. COPELAND. No?

Mr. BLACK. No. The Senator has interpreted and interpolated that for me in the statement which he has made. If the Senator thinks they are wicked, the Senator lives there and he knows better than I do. I do not say it.

Mr. COPELAND. I just came from Chicago and was not "bumped off" while I was there.

Mr. BLACK. The Senator was fortunate.

Mr. COPELAND. Yes; and a man there lives within gunshot of his neighbor. I should like to ask the Senator does he refer to the New York newspapers?

Mr. BLACK. I refer to those newspapers—I do not care to make a list of them now, but if the Senator wants me to, I will try to prepare a list and put it in the RECORD—which have been attacking Congress with reference to this particular bill and insisting and urging that this was a reapportionment bill when it is not a reapportionment bill.

Mr. COPELAND. Perhaps, when those newspapers are as well enlightened as is the Senator from Alabama they will not be so insistent.

Mr. BLACK. That is possible.

Mr. COPELAND. But is it not perfectly natural that newspapers, if they represent the public thought, should desire that Congress should act in a constitutional way and proceed to make a reapportionment? The Senator certainly is not opposing a reapportionment.

Mr. BLACK. I should think it would be very natural for those newspapers not only to want that constitutional provision obeyed, but the eighteenth amendment. Some of them, however, are using their columns daily to attack and break down the enforcement of that provision of the Constitution, while they set themselves up as the great arbiters to determine for us when we shall vote, how we shall vote, and in what way we shall vote.

Mr. COPELAND. If the Senator will permit me, let me say that I think it is unfair to speak in that way in the absence of the Senator from Maryland (Mr. BRUCE). He is not here tonight. [Laughter.]

Mr. BLACK. I should like to say for the benefit of the Senator that I voted for the motion to invite all Senators to come in, and thought the Senator from Maryland would be here.

Mr. DALE. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Vermont?

Mr. BLACK. I yield.

Mr. DALE. Will the Senator tell us whether it is possible for this Congress to pass any reapportionment bill that will take effect?

Mr. BLACK. That will take effect?

Mr. DALE. Yes, sir.

Mr. BLACK. I very seriously doubt it at this time. It would certainly be necessary to amend the pending bill. If they could take the title, which is now a misnomer, and write a bill after it, and then if they could get the House to accept it, it would be possible to pass a reapportionment bill based on the 1920 census, but not one based on the 1930 census.

Mr. DALE. But before such a bill could take effect the 1930 census will have been taken.

Mr. BLACK. That is correct.

Mr. DALE. And we can not pass a bill based on the 1930 census.

Mr. BLACK. We can not pass a bill based on the 1930 census; that is correct.

Mr. DALE. We are undertaking now to do what is absolutely impossible for us to do and have any effect.

Mr. BLACK. We are attempting, if I understand this bill correctly, to leave the world under the impression that this particular Congress has a monopoly on virtue and right.

Mr. DALE. Yes, sir.

Mr. BLACK. And that we can not trust the Congress in 1930 or the ones in 1931 or 1932 or 1933 or 1934.

Mr. DALE. Precisely.

Mr. BLACK. That this is the only good Congress which has ever been in existence.

Mr. VANDENBERG. The Senator will concede, I think, that no Congress has been trustworthy since 1921 on the subject of reapportionment.

Mr. BLACK. I do not.

Mr. VANDENBERG. What has happened to make the Senator think it has been trustworthy?

Mr. BLACK. One thing is that a reapportionment bill was passed by the House, but two Representatives from the State of Michigan were active and instrumental in having that bill recommitted to the committee, where it was killed. Major fractions were not even in that bill.

Mr. VANDENBERG. What happened in 1921?

Mr. BLACK. In 1921, according to my information, a bill came into the Senate.

Mr. VANDENBERG. Yes; and what happened to it?

Mr. BLACK. My understanding is that it was passed by the House, but this body had the privilege and the right to decline to pass a bill which, in their judgment, was not right. Has the time come when, because the Senator thinks the Constitution requires reapportionment, the Members of this body are compelled to subordinate their personal belief as to what is right, and swallow the bill hook, line, and sinker, and say, "We take it; we know it is wrong, but in the end it may bring about reapportionment."

Mr. VANDENBERG. The Senate did not even pass on the bill of 1921. It throttled it in the dark in a committee. There have been three Congresses since, and the Senator from Alabama has sat in one or two of them; and I have not heard his voice raised in any great anxiety that the constitutional mandate should be constitutionally liquidated.

Mr. BLACK. In the first place, there has been no reapportionment bill in this body.

Mr. VANDENBERG. Why has there not been?

Mr. BLACK. I have not been here. Perhaps it is because the Congressmen from Michigan and the Senators from that State have not offered one. I do not know. I can not be responsible for the consciences of the Congressmen from Michigan and the Senators from Michigan. I have all I can do to attend to my own.

Mr. VANDENBERG. The Senator apparently is responsible only for a negative interest in this particular constitutional problem.

Mr. BLACK. It is the Senator's privilege to make that statement. At the same time, I stated in the beginning and I state now that while I do not agree with the Senator that there is an express and explicit mandate in the Constitution for reapportionment every 10 years, it is my judgment that it should be made, and I shall vote for any bill that comes to this House which fairly and equitably apportions the Representatives among the States of this Union at any time it comes; but I will not, by reason of the fact that Congress has not heretofore passed a good act, stand up and support a bill which is unjust and unrighteous and is written and designed for the benefit of the big States of this Union and against the small and rural States.

Mr. VANDENBERG. May I ask the Senator just one more question?

Mr. BLACK. Yes; I yield.

Mr. VANDENBERG. Then I will desist from contributing to the filibuster against myself.

Mr. BLACK. This is not a filibuster. The bill is bad.

Mr. VANDENBERG. I beg the Senator's pardon. I understand that.

The Senator, as I understand his position, would be glad, on the basis of the 1930 census, to vote immediately for such a reapportionment measure as would appeal to him as being fair and equitable. Is that correct?

Mr. BLACK. It is correct that I would vote immediately for any fair and equitable reapportionment.

Mr. VANDENBERG. Will the Senator now kindly point out what there is in the pending measure which would prevent precisely that thing happening in 1931?

Mr. BLACK. That is exactly what I expect to do if I am permitted to reach it. I am on my way. I can not say it all at once. I am just beginning to show the Senator a part of it, and I am going to show him some more before I finish if he will stay with me.

Mr. VANDENBERG. The only thing there is in this bill is a warrant that the Senator would have to participate in that sort of a reapportionment in 1931 or else face an automatic rule

which 11 years later would validate this particular constitutional mandate.

Mr. BLACK. Yes, sir; and I desire to state that if the time has come when one Congress feels itself so bloated with virtue and righteousness and having so much of a monopoly upon goodness and truth and obedience to the Constitution that that Congress is the only one that considers itself capable of obeying the Constitution of the United States, it should have itself erected upon a pedestal, and should be held up to the world as the model of virtue and beauty and justice.

My opinion is that the right to reapportionment ought to remain where the fathers who wrote the Constitution put it, in the hands of the Congress of the United States, and that any effort to remove it from the hands of the Congress of the United States is an assault upon the wisdom, upon the statesmanship, and upon the political ideals of the framers of the Constitution, which has been designated as the greatest instrument that ever came from the hearts or the minds of men.

Mr. VANDENBERG. At last the Senator and I can agree upon one thing. I agree that it ought to remain in the hands of the Congress, and not in its pockets.

Mr. BLACK. Mr. President, the Senator desired to know why I thought this bill was unjust, and I am just beginning to tell him.

Prof. J. W. Young, professor of mathematics at Dartmouth College, said this:

> It is true, after all, that the members of a congressional committee, and the Members of Congress as a whole, will not readily understand any one of the three methods, and whatever method is adopted the States unfavorably affected will protest. If the method of major fractions continues to be used—

I desire to call the attention of the Senator from Michigan to this. He wished to know why I thought this bill might be bad, and I am attempting to read to him the evidence which was before his committee, and which the committee evidently did not read, from the statement of Prof. J. W. Young, professor of mathematics at Dartmouth College—

> if the method of major fractions continues to be used, the protesting States will, it seems to me, have the best authority on their side, and in any case it would seem to me unwise to adopt a poorer method merely because a better method is more difficult to explain.

An example of the difference under the different methods, shown on page 53 of the House hearings, which I assume the Senators on the committee have read, shows, for instance, that New York under the plan of major fractions would receive 43, under the plan of equal proportions would receive 42, and under the plan of minimum range would receive 41.

The State of Pennsylvania under the major fractions would receive 36, under the equal proportions 37, and under the minimum range 36.

This is according to the census of 1920.

Mr. HARRISON. Has the Senator the figures for Michigan?

Mr. BLACK. No; I have not the figures for Michigan, but I am informed from the statement made on the floor of the House that Michigan will gain two or three or four Representatives under the system of major fractions—I do not recall the exact number—and that it will gain fewer Representatives under the system of equal proportions, or minimum range.

In other words, the undisputed evidence before the Congressional committee, which was brought over to the Senate and which the Senate committee did not have time to read, shows beyond the shadow of a doubt that the method of major fractions was designed for the purpose of extending the Representatives in the large States to the detriment of the small States and the rural communities.

The same thing is true with reference to California.

Now, I desire to show to the committee what was stated with reference to the system known as the minimum range.

There are three, or really four, systems. There is one system which was first adopted, and which was used until 1840, known as the system of rejected fractions. All these systems with reference to fractions come about for this reason:

We will take, for instance, a State which would have conceded to it eight Representatives. If you divide the total population of that State by eight, or if we say that you are going to give 200,000 constituents to each Congressman, that will not give you an even number, but will give you eight and a fraction; so the question comes up, How will you apportion the fractions?

That has never been of any importance until the time has come when it seems that the policy will be established of not increasing the membership in the House. That is the reason why heretofore there has been no controversy over the question. That is the reason why my friend asked me a moment ago if they had used the system of major fractions before. They have; but when they used the system of major fractions they did not take away from one State to give to another. When they used that system before, they increased the size of the House so that no State lost a Congressman, but other States gained. Now we have reached the time when we are adopting the policy that the membership remains unchanged. When you take a Congressman away from one State you give him to another, and when you give a Congressman to one State he comes from another. The result is that the system of determining the method is of vital importance. Not only is it of vital importance to-day, but if this monstrous legislation goes through it will be important in all the years to come. There will be some, if this legislation goes through, who vote for it to-day who will live to regret the time that they ever cast their ballots for this legislation.

What does that mean?

The other system is the system of minimum range. Here is what Doctor Willcox said about it; and Doctor Willcox is the gentleman who recommends major fractions. Here is his language:

> If the main purpose is to give the congressional districts as nearly as possible the same population, making the smallest possible difference between the State with the largest average congressional districts and the State with the smallest, so far as Congress by apportionment can bring about that result, the method of minimum range is to be preferred.

Of course, if we are to depart from the system of attempting to give to each congressional district as nearly as possible the same number of constituents, and if, instead of that, we believe in the method which is proposed here of giving Representatives to the large States and taking them away from the small States, then we should prefer the system of major fractions over and above the system of minimum range.

Mr. TRAMMELL. Mr. President, will the Senator yield for a question?

Mr. BLACK. I yield.

Mr. TRAMMELL. Just for my information, I should like to ask the Senator whether the State of Alabama gains or loses in its representation under the system proposed in the bill?

Mr. BLACK. Under the system proposed by this bill it is absolutely and completely impossible to determine whether Alabama will gain or lose. Under the conjectural method of computation, Alabama is listed as one of the States that would lose a Representative. Perhaps it might under the system of major fractions. Personally, I very seriously doubt it. But whether it would or not is immaterial. I will vote in 1931 or in 1930, whenever it comes up, for a just and fair reapportionment bill if it takes 1 or 2 or 3 Representatives away from the State of Alabama; but I will not vote for a measure which is destined in the long run to change prematurely the great balance of legislative power in this Nation from the rural districts into the great metropolitan areas.

Mr. TRAMMELL. Mr. President, will the Senator yield for another question?

The PRESIDING OFFICER. Does the Senator from Alabama further yield to the Senator from Florida?

Mr. BLACK. I yield.

Mr. TRAMMELL. In the study of this question by the Senator, does he not realize that there are a number of States which, under the present system, have not anything like the proportionate representation in the House of Representatives that they should have according to the number of Representatives in other States?

Mr. BLACK. That is absolutely correct; yes, sir.

Mr. TRAMMELL. Among those Sates is the State of Florida.

Mr. BLACK. That is correct.

Mr. TRAMMELL. We have only four Congressmen, and there are many States of no larger population that have from 7 to 10 Congressmen.

Mr. BLACK. That is correct.

Mr. TRAMMELL. We should like the Senator to assist us in some plan to correct that discrimination against the State of Florida and other States in a similar position.

Mr. BLACK. That is correct, and I will show the Senator in a few moments that under the system proposed here it was figured out—this was called the Alabama paradox—in such a way that if the number of Representatives was increased, Alabama received 9; if the number was decreased, Alabama received 10. That is the method which is proposed in this bill; and I will read the Senator in a few moments just exactly what that means.

I agree with the Senator that the State of Florida is underrepresented. As I stated in the beginning, I believe in a fair and just and equitable reapportionment; but I do not believe, because a State may get something from this bill, that it ought to be willing to sell its birthright for a mess of pottage and tie

itself down for generations to a method which is unfair and unjust, and which, sooner or later, will take away from it that which it has.

Mr. DILL. Mr. President——

Mr. TRAMMELL. I do not think a State ought to do that.

Mr. BLACK. I know that.

Mr. TRAMMELL. On the other hand, I do not think some State that might perchance lose should take any such attitude, either.

Mr. BLACK. There is no difference between the Senator and me on that. I state again, as I stated in the beginning, that there should be a fair reapportionment after the census is taken. If this bill had been brought in here during my term in the Senate on a basis of reapportionment on the census, even though I think the census of 1920 was incomplete, I should have voted for it.

Mr. DILL. I wanted to ask the Senator what would be the effect on the State representation under this other method, known as the minimum range, about which he has spoken.

Mr. BLACK. I have not looked at that. I do not think they would lose any.

Mr. DILL. What is the great difference? I have not heard it clarified by the Senator.

Mr. BLACK. I have not attempted to explain it, except as to results. A little later I will explain it, as far as a layman can. I do not claim that I can explain it so accurately that it will be understood, but I will read the Senator what has been said about it. Doctor Willcox said again, and this is his explanation of the minimum range:

> I do not know whether I make my explanation clear, but I should say that the principle of minimum range is that we invariably give each additional Representative to the State, which at that point, has the largest average population per Representative.

In other words, if they are attempting to apportion the Representatives, and they find that one State has a larger proportionate representation to the State than another, then that State would first get an additional Representative. That is the method of minimum range.

Mr. DILL. Then the State with the next highest average per Congressman——

Mr. BLACK. Would get the next.

Mr. DILL. Where there was a case over and above the figure fixed by the law.

Mr. BLACK. That is correct.

Again Doctor Willcox said, and I would like to have the Senator listen to this:

> If the committee desires to cut loose entirely from controversy between the large and the small States—

This is Doctor Willcox, who recommended the system of major fractions.

> If the committee desires to cut loose entirely from controversy between the large and small States, and adopt a principle of apportionment which secures the least possible difference between the States with largest population for Representatives, and the States with the smallest population for Representatives, I think that end can be secured by the method of minimum range.

Mr. VANDENBERG. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Michigan?

Mr. BLACK. I yield to the Senator.

Mr. VANDENBERG. Will the Senator permit me to quote from his favorite author for just a moment.

Mr. BLACK. I will when the Senator's time comes to speak.

Mr. VANDENBERG. I will be glad to wait.

Mr. BLACK. Doctor Willcox is not my favorite author. I have stated from the beginning that he is the gentleman who is recommending the system of major fractions, but on questions being propounded by members of the committee, he was compelled to admit the statements which I have just read.

With reference to the method of equal proportions, here, as I understand it, is the difference between equal proportions and major fractions, that is, so far as it can be understood at the present time, but I shall show in a few minutes, by the statement of the Assistant Director of the Census, that the Census Bureau could not act under this bill if it so desired. It leaves it entirely to their discretion.

The difference is this: We will assume, now, that a division has been made, and certain fractions are left over. Under the original system of major fractions, the idea was that if any State had a fraction of more than 50 per cent of the total amount needed for a Representative, that would entitle them to an additional Representative. That has been modified now, as I shall show in a few moments.

Under the system of equal proportions, the statisticians and scientists have agreed that the proper method is not the absolute difference in figures, that that does not comply with the spirit or the letter of the Constitution, but we should take the relative proportion of the fraction to the population of the State. In other words, the Senate can readily see that under that system the State with a small population would have an advantage over the State with the largest population, but the State with the medium population would always get that to which it was justly entitled.

Doctor Hill said with reference to the method of equal proportions:

> The method of equal proportions is the method by which the relative or percentage differences in either the number of inhabitants per Representatives or the number of Representatives per inhabitants are as small as possible.

Doctor Hill, the Assistant Director of the Census said:

> The method of equal proportions is more favorable to the large States than the method of minimum range, and less favorable than the method of major fractions.

In other words, the system of equal proportions stands on middle ground between that of the minimum range and that of major fractions.

This committee has presented to the Senate a bill which is in the interest and to the benefit, according to the statements of every statistician and mathematician in the United States, of the large States and against the States of medium size and the States of smaller size.

Doctor Hill said further:

> If it be desired to have a method which shall be as favorable to the large States as possible, then the method of major fractions should be used.

Remember, that is the method which is offered here, and Doctor Hill says, and I call it to the attention of Senators. If it be desired to adopt a method which is as favorable as possible to the large States, then adopt the method of major fractions.

Mr. DILL. Mr. President, will the Senator yield?

Mr. BLACK. I yield.

Mr. DILL. Have the statisticians worked out the number of Representatives that each State would have under these three systems?

Mr. BLACK. They have; according to the 1920 census but not according to the 1930 census. They may have worked it out according to their conjecture of the 1930 census.

Mr. DILL. Do their figures appear in the hearings?

Mr. BLACK. They are in the hearings. These statements are made largely from the figures given in the hearings, and the statements were made by the experts who testified before the committee.

Going further, Doctor Hill said:

> If it be desired to have a method to favor the small States as much as possible, then the method of minimum range should be used. If it be desired to adopt a method intermediate between these two not as favorable to the large State as major fractions nor as favorable to the small States as the method of minimum range, then the right method is the method of equal proportions.

I call attention to that statement from the man who knows. He is the Assistant Director of the Census. He says that if it is the desire to adopt a method which will be as favorable as possible to the large State and as unfavorable as possible to the small States, then the system of major fractions should be adopted, which my friend says we must vote for or be disloyal to the Constitution of the United States.

Doctor Hill said further that if we want to get the intermediate method, which will be fair to both, we should adopt the system of equal proportions.

Doctor Hill said further:

> I would agree, and everybody understands, that the method of equal proportions is more advantageous to the smaller States than major fractions, and vice versa.
>
> The method of equal proportions is the method by which the relative or percentage differences in either the number of inhabitants per Representative or the number of Representatives per inhabitants are as small as possible.

I read a few moments ago from what the advisory committee unanimously stated with reference to this method.

Mr. HEFLIN. Mr. President, will my colleague yield to me?

Mr. BLACK. I yield.

Mr. HEFLIN. My colleague is making a very able speech against this monstrosity that has been offered here, and I think

the Senators who have to pass on this question ought to be here; so I suggest the absence of a quorum.

Mr. VANDENBERG. Mr. President, a point of order. No business having intervened, I make the point of order that the suggestion of a lack of a quorum is out of order.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. HEFLIN. Mr. President, I suggest that business has intervened. Discussion of a very important question has been going on, and several Senators have participated in the debate, including the Senator from Michigan [Mr. VANDENBERG]. I would like to know, if we are not transacting any business, why we should stay here.

Mr. BLACK. Do we have to wait until we have a vote on something?

The PRESIDING OFFICER. The Chair will state that under the rule the roll can not be called for a quorum unless business has intervened, and discussion is not business. There has been no business transacted since the last quorum call.

Mr. HARRISON. I move that the Senate take a recess for 10 minutes.

The PRESIDING OFFICER. The Chair holds that the motion is out of order.

Mr. HARRISON. I appeal from the decision of the Chair, and on that I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the appeal from the decision of the Chair. The Chair ruled that the motion to take a recess for 10 minutes was out of order, on the ground that no motion is in order except a motion to adjourn, or a motion to take a recess, which would have to be a motion to take a recess until to-morrow, and not a recess for 10 minutes. The question is, Shall the decision of the Chair stand as the judgment of the Senate? On this question the Senator from Mississippi demands the yeas and nays.

Mr. HARRISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. No business having intervened——

Mr. HARRISON. I submit that business has intervened, Mr. President.

The PRESIDING OFFICER. There has been no decision made yet.

Mr. HARRISON. Very well. I ask for the yeas and nays on my appeal from the decision of the Chair.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. CURTIS (when his name was called). I have a pair with the senior Senator from Arkansas [Mr. ROBINSON]. Not knowing how he would vote on this question if present, I withhold my vote. I desire to be marked present for a quorum.

The roll call was concluded.

Mr. GEORGE. I inquire if the senior Senator from Colorado [Mr. PHIPPS] has voted?

The PRESIDING OFFICER (Mr. WATSON in the chair). That Senator has not voted.

Mr. GEORGE. Having a pair with that Senator, I withhold my vote.

The result was announced—yeas 32, nays 6, as follows:

YEAS—32

Ashurst	Frazier	Nye	Thomas, Idaho
Bingham	Goff	Oddie	Thomas, Okla.
Bratton	Hastings	Pine	Trammell
Copeland	Hayden	Robinson, Ind.	Vandenberg
Couzens	Johnson	Schall	Wagner
Dale	Jones	Sheppard	Walsh, Mass.
Dill	McMaster	Smith	Waterman
Edwards	Neely	Steiwer	Watson

NAYS—6

Barkley	Blaine	Heflin	Stephens
Black	Blease		

NOT VOTING—57

Bayard	Gillett	McKellar	Sackett
Borah	Glass	McLean	Shipstead
Brookhart	Glenn	McNary	Shortridge
Broussard	Gould	Mayfield	Simmons
Bruce	Greene	Metcalf	Smoot
Burton	Hale	Moses	Steck
Capper	Harris	Norbeck	Swanson
Caraway	Harrison	Norris	Tydings
Curtis	Hawes	Overman	Tyson
Deneen	Howell	Phipps	Walsh, Mont.
Edge	Kendrick	Pittman	Warren
Fess	Keyes	Ransdell	Wheeler
Fletcher	King	Reed, Mo.	
George	La Follette	Reed, Pa.	
Gerry	Larrazolo	Robinson, Ark.	

The PRESIDING OFFICER. The roll call having disclosed the absence fo a quorum, the clerk will call the roll.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum, and make the point that the vote just taken discloses the fact that there is no quorum present.

The PRESIDING OFFICER. The Senator from Alabama demands the presence of a quorum. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	McMaster	Stephens
Barkley	Frazier	Neely	Thomas, Idaho
Bingham	George	Oddie	Thomas, Okla.
Blaine	Goff	Pine	Trammell
Blease	Harrison	Robinson, Ind.	Vandenberg
Bratton	Hastings	Schall	Wagner
Copeland	Hayden	Sheppard	Walsh, Mass.
Couzens	Heflin	Shortridge	Waterman
Curtis	Johnson	Smith	Watson
Dill	Jones	Steiwer	

The PRESIDING OFFICER. There are 39 Senators present who have answered to their names, which discloses the fact that there is not a quorum present.

Mr. NEELY. Mr. President, I now propose the following order and ask for its immediate consideration:

Whereas under the rules of the Senate a call of the Senate has been ordered; and

Whereas the following-named Senators are absent without leave of the Senate, to wit (names to be filled in);

Whereas it is necessary to compel the attendance of said absent Senators in order that the Senate may proceed to the transaction of its business: Therefore it is

Ordered, That the Sergeant at Arms, be, and he is hereby, directed to compel the attendance on the Senate of said-named absent Senators, unless they be ill; and it is further

Ordered, That warrants for the arrest of said Senators be forthwith issued under the signature of the Presiding Officer, attested by the Secretary, and that the Sergeant at Arms be, and he is hereby, directed to execute such warrants forthwith by arresting each of said-named absent Senators and bringing them, and each of them, before the bar of the Senate; and that he make due return to the Senate of the execution of said warrants; and that this order shall be continuing until fully executed unless otherwise ordered by the Senate.

The PRESIDING OFFICER. Does the Senator make that as a motion?

Mr. NEELY. I do.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia [Mr. NEELY].

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. BLACK. Mr. President——

The PRESIDING OFFICER. For what purpose does the Senator rise?

Mr. BLACK. I desire to move a reconsideration.

The PRESIDING OFFICER. The decision of the Chair is that under the unanimous-consent agreement heretofore entered into and the fact that a quorum is not present, as having been disclosed by the roll call, there are but two courses open to the Senate at this time and only two matters of business are in order. One is a motion to take a recess and the other is a motion to instruct the Sergeant at Arms to secure the presence of a quorum. The latter course has been adopted, and therefore the Chair holds that everything else is out of order except the motion to take a recess.

Mr. HEFLIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEFLIN. The rule declares that a motion to adjourn is always in order. If a motion to adjourn should prevail, the Senate having previously, when it had a quorum, entered into a unanimous-consent agreement to take a recess upon the conclusion of business to-day and to meet at 11 o'clock to-morrow morning, would a motion to adjourn, if carried, affect that order?

The PRESIDING OFFICER. It would not, because a motion to adjourn is not in order at this time.

Mr. HEFLIN. Would a motion to take a recess be in order?

The PRESIDING OFFICER. A motion to take a recess is in order under the unanimous-consent agreement hitherto adopted.

Mr. HEFLIN. I believe it will take longer than 45 minutes to bring absent Members to the Chamber. Therefore, I move that the Senate take a recess until 11 o'clock to-morrow.

The PRESIDING OFFICER. That motion is in order.

Mr. VANDENBERG. Upon that motion I ask for the yeas and nays.

The yeas and nays were ordered and the Chief Clerk proceeded to call the roll.

Mr. CURTIS (when his name was called). Making the same announcement as to my pair and its transfer as on the previous vote, I vote "nay."

The roll call was concluded.

Mr. GEORGE. Making the same announcement in reference to my pair as previously, I withhold my vote.

The result was announced—yeas 7, nays 34, as follows:

YEAS—7

Barkley	Broussard	Harrison	Nye
Blaine	Frazier	Heflin	

NAYS—34

Ashurst	Fess	Robinson, Ind.	Thomas, Okla.
Bingham	Goff	Schall	Trammell
Black	Hastings	Sheppard	Vandenberg
Blease	Johnson	Shortridge	Wagner
Bratton	Jones	Smith	Walsh, Mass.
Copeland	McMaster	Steck	Waterman
Couzens	Neely	Steiwer	Watson
Curtis	Oddie	Stephens	
Dill	Pine	Thomas, Idaho	

NOT VOTING—54

Bayard	Gillett	Larrazolo	Reed, Pa.
Borah	Glass	McKellar	Robinson, Ark.
Brookhart	Glenn	McLean	Sackett
Bruce	Gould	McNary	Shipstead
Burton	Greene	Mayfield	Simmons
Capper	Hale	Metcalf	Smoot
Caraway	Harris	Moses	Swanson
Dale	Hawes	Norbeck	Tydings
Deneen	Hayden	Norris	Tyson
Edge	Howell	Overman	Walsh, Mont.
Edwards	Kendrick	Phipps	Warren
Fletcher	Keyes	Pittman	Wheeler
George	King	Ransdell	
Gerry	La Follette	Reed, Mo.	

So the Senate refused to take a recess.

RECESS

Mr. VANDENBERG. Mr. President, in view of the repeated and decisive demonstrations that the friends of the Constitution are willing to stand by it in this fight, but equally in view of the fact that we have but 40 minutes remaining for the session to-night—and obviously no decision can be reached in that time—in deference to the wishes of several Senators present, I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 10 o'clock and 20 minutes p. m.), pursuant to its previous order, the Senate took a recess until to-morrow, Tuesday, February 26, 1929, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate February 25, 1929

UNITED STATES COAST GUARD

Lieut. (Temporary) Niels S. Haugen to be a lieutenant in the Coast Guard of the United States, to rank as such from date of oath.

The above-named officer has met the requirements for appointment in the regular Coast Guard, as set forth in section 5 of the act of July 3, 1926.

PROMOTIONS IN THE NAVY

Lieut. Commander Charles M. Elder to be a commander in the Navy from the 25th day of December, 1928.

Lieut. Commander Rush S. Fay to be a commander in the Navy from the 15th day of February, 1929.

Lieut. Commander Charles M. Cooke, jr., to be a commander in the Navy from the 18th day of February, 1929.

Lieut. Robert L. Porter, jr., to be a lieutenant commander in the Navy from the 15th day of February, 1929.

Lieut. (Junior Grade) Roy R. Darron to be a lieutenant in the Navy from the 3d day of September, 1928.

Ensign Isaac S. K. Reeves, jr., to be a lieutenant (junior grade) in the Navy from the 4th day of June, 1928.

POSTMASTERS

ALABAMA

Phala B. Atkins to be postmaster at Crichton, Ala., in place of J. A. Stallworth, deceased.

ARKANSAS

Carrick W. White to be postmaster at Walnut Ridge, Ark., in place of C. W. White. Incumbent's commission expired January 3, 1928.

DELAWARE

Jay C. Davis to be postmaster at Middletown, Del., in place of J. J. Jolls, removed.

GEORGIA

Nellie B. Brimberry to be postmaster at Albany, Ga., in place of N. B. Brimberry. Incumbent's commission expired January 28, 1929.

Lonnie E. Sweat to be postmaster at Blackshear, Ga., in place of L. E. Sweat. Incumbent's commission expires March 3, 1929.

John L. Dorris to be postmaster at Douglasville, Ga., in place of J. L. Dorris. Incumbent's commission expired February 21, 1929.

IDAHO

Haly C. Kunter to be postmaster at Ririe, Idaho, in place of H. C. Kunter. Incumbent's commission expired February 21, 1929.

IOWA

Clarence B. Moser to be postmaster at Strawberry Point, Iowa, in place of G. F. Scofield. Incumbent's commission expired August 29, 1923.

KENTUCKY

Hallie M. Duncan to be postmaster at Horse Branch, Ky., in place of Stanley Byers. Appointee declined.

Rex P. Cornelison to be postmaster at Paducah, Ky., in place of I. C. Byerley. Incumbent's commission expired February 1, 1928.

Rachel F. Adams to be postmaster at Whitesburg, Ky., in place of F. G. Fields, resigned.

MASSACHUSETTS

William H. Whitham to be postmaster at Clinton, Mass., in place of P. H. McIntyre. Incumbent's commission expired December 13, 1928.

MINNESOTA

Wilbert D. Hanson to be postmaster at Grove City, Minn., in place of W. D. Hanson. Incumbent's commission expires March 3, 1929.

MISSISSIPPI

Will N. Guyton to be postmaster at Blue Mountain, Miss., in place of W. N. Guyton. Incumbent's commission expires February 27, 1929.

NEVADA

Robert B. Griffith to be postmaster at Las Vegas, Nev., in place of R. B. Griffith. Incumbent's commission expires March 3, 1929.

NEW JERSEY

William B. Brown to be postmaster at Beachwood, N. J., in place of W. B. Brown. Incumbent's commission expires February 27, 1929.

William J. Hart to be postmaster at Fort Lee, N. J., in place of W. J. Hart. Incumbent's commission expires March 3, 1929.

Gustav L. Meyn to be postmaster at Palisade, N. J., in place of G. L. Meyn. Incumbent's commission expired December 13, 1928.

NORTH CAROLINA

Robert K. Hallifield to be postmaster at Forest City, N. C., in place of M. M. McCurry. Incumbent's commission expired January 26, 1929.

OHIO

Hattie L. Davison to be postmaster at Magnolia, Ohio, in place of H. L. Davison. Incumbent's commission expires March 2, 1929.

PENNSYLVANIA

Horace G. Likeley to be postmaster at Carbondale, Pa., in place of J. N. Gelder, deceased.

TENNESSEE

Minna M. Carson to be postmaster at Old Hickory, Tenn., in place of M. M. Carson. Incumbent's commission expires February 26, 1929.

TEXAS

Lawrence D. Karger to be postmaster at Cat Spring, Tex., in place of G. H. Fricke. Incumbent's commission expired May 14, 1928.

John A. Noland to be postmaster at Crawford, Tex., in place of J. A. Noland. Incumbent's commission expired February 7, 1929.

Tenos W. Elkins to be postmaster at Freeport, Tex., in place of T. W. Elkins. Incumbent's commission expires March 3, 1929.

Joseph R. Gilliland to be postmaster at Paradise, Tex., in place of J. R. Gilliland. Incumbent's commission expires March 3, 1929.

Fannie Fuqua to be postmaster at Shiro, Tex., in place of G. W. Leonard, resigned.

Robert W. Scurlock to be postmaster at Tenaha, Tex., in place of R. W. Scurlock. Incumbent's commission expires February 28, 1929.

VERMONT

John Noble to be postmaster at Bethel, Vt., in place of J. S. Kimball. Incumbent's commission expired June 6, 1928.

Dennis A. Brahana to be postmaster at Irasburg, Vt., in place of O. N. Washer. Incumbent's commission expired January 8, 1929.

Grace B. Adams to be postmaster at Wells River, Vt., in place of G. E. Moore, resigned.

WEST VIRGINIA

Etta Halstead to be postmaster at Dorothy, W. Va.. Office became presidential July 1, 1928.

WISCONSIN

Francis Stone to be postmaster at Park Falls, Wis., in place of Paul Herbst. Incumbent's commission expired January 10, 1929.

Ralph H. Tolford to be postmaster at Thorp, Wis., in place of R. H. Tolford. Incumbent's commission expired February 21, 1929.

August J. Christianson to be postmaster at Webster, Wis., in place of A. J. Christianson. Incumbent's commission expired February 20, 1929.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 25, 1929

POSTMASTERS

ALASKA

William Arthur, Nome.

ARKANSAS

Carrick W. White, Walnut Ridge.

COLORADO

Martha E. Williams, Bonanza.
William B. Edwards, Erie.
Cornelia Coleman, La Veta.

CONNECTICUT

Philip K. Dewire, New London.

ILLINOIS

Alfred P. Goodman, Verona.

KANSAS

Alice B. Stark, Bonner Springs.
Edna Gordon, Dwight.

KENTUCKY

Vera Baird, Crab Orchard.
John E. Skaggs, Neon.
John H. Meyer, Newport.

MASSACHUSETTS

Charles W. Cole, Dighton.
Richard B. Eisold, Ludlow.
Edmund V. O'Brien, North Brookfield.
Clarence J. Conyers, Seekonk.

MICHIGAN

Charles C. Kellogg, Detroit.
James F. Jackson, Mohawk.

MINNESOTA

Lesley S. Whitcomb, Albert Lea.
George H. Hopkins, Battle Lake.
E. Arthur Hanson, Benson.
Thomas Clarkson, Bethel.
Elias A. Quale, Clarkfield.
Nels E. Berg, Cokato.
John R. Norgren, Foreston.
Floyd C. Fuller, Grey Eagle.
Bernard O. Stime, Jasper.
Mary Zakula, Kinney.
Alvin E. Comstock, Lakefield.
Edith Steinbring, Markville.
Frank L. Hoagland, Marshall.
Albert Groenke, New Germany.
Bennie H. Holte, Starbuck.

MISSOURI

Bertha D. Marling, Elsberry.
Charles C. Stobaugh, Triplett.

MONTANA

Ernest M. Hutchinson, Whitefish.

NEBRASKA

Edward G. Hall, David City.
Ernest J. Kaltenborn, Waco.

NEVADA

James W. Johnson, Fallon.

NEW JERSEY

Harvey E. Harris, Bloomfield.

NORTH CAROLINA

Cephus Futrell, Murfreesboro.

NORTH DAKOTA

Henry D. Mack, Dickey.
Harry A. Hart, Ray.
Carrie E. Kempshall, Taylor.
Katherine Ritchie, Valley City.

OHIO

Ferdinand H. Schuster, Bellevue.
Katharine M. Crafts, Mantua.
Ethel Brown, Mount Blanchard.
Earl T. Ewing, Wellsville.

PENNSYLVANIA

Charles J. Williamson, Greensboro.
James B. Maugle, New Ringgold.
Arthur J. Davis, Noxen.
Charles W. High, Quincy.
Daniel F. Pomeroy, Troy.

PORTO RICO

Pablo Vilella, jr., Lares.

SOUTH CAROLINA

Raymond S. Younginer, Irmo.
Ellen M. Williamson, Norway.

SOUTH DAKOTA

Thomas A. Krikac, Dupree.
Emmett O. Frescoln, Winner.

TEXAS

Kathryne Witty, Hamilton.
Leslie W. Garrett, Quitman.
Paul A. Taylor, Winfield.

VIRGINIA

Robert N. Goodloe, Afton.
Margaret H. Hardy, McKenney.
John H. Tyler, Upperville.
Mary O. Pumphrey, West Point.

WEST VIRGINIA

Levi Gay, Eccles.
Millard M. Mason, Seth.
Fred E. Cowl, Wheeling.

WISCONSIN

Earle R. Adamson, Belleville.
Arthur G. Besse, Butternut.
Leroy G. Waite, Dousman.
Hjalmar M. Johnson, Eau Claire.
Leo E. Butenhoff, Markesan.
John A. Dysland, Mount Horeb.
Carl C. Martin, New Lisbon.
Libbie M. Bennett, Pewaukee.
Grace R. Morgan, Spring Green.
Jessie M. McGeorge, Stone Lake.
James E. Robar, Walworth.
Albert J. Topp, Waterford.
Louis A. Meininger, Waukesha.
Robert R. Porter, Wheeler.

HOUSE OF REPRESENTATIVES

MONDAY, *February 25, 1929*

The House met at 12 o'clock noon.

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

Thou God of the Universe, whose infinite spirit moves along the paths of space and from whom the earth and the seas flee away. In the volume of the Book it is written, "I delight to do Thy will"; write Thy law in all our hearts and build in each one a definite altar dedicated to a definite God. O may our zeal in well-doing begin with this new week day, thinking true thoughts and speaking true words. O to be alive dear Father; alive, taking a living world to our breasts; walking in its brotherly ways, feeling that we are moving on and on to a wonderful great forever. Yes, with Thee all along the way, with sweet fidelity, holy trust, and with deep humility. Take us, mold us into the sons of the morning, walking in the