with the bones of dead evils, slain by man in his climb toward God; that we may build, build in our pride and power as deep as the continent, build as high as the Himalayas; but if we build upon human wrong or human injustice, the hour will come when somewhere the heart throb of a woman or the pulse of a babe will beat down the edifice we rear—topple it in ruin about our nerveless, helpless feet. These are not days for complacent criticism, but for earnest, sympathetic action. Every American citizen has a duty to perform, a sacred, inescapable duty, to see that unremitting warfare is carried on against every existing evil, until the festering ulcer of greed and corruptly inspired animosities are cut out of the body politic—State as well as Federal—so that all the people may again enjoy honest and sane government and rededicate themselves to the pledge that Christian civilization shall again find its soul and emerge to its final triumph. This is the spirit of West Virginia—this blessed earth, this realm—this native soil of such dear souls, this home of the free mountaineer, where we the children of the purest republican virtues have developed the moral character which renders liberty a virtue, and never a danger. And with all her faults, and they are conspicuous only because they are on the surface, West Virginia is yet the dearest, finest, tenderest, most delicate land in all this mighty union of indestructible Commonwealths. She will regain once more, as will her sister States, the secrets of sacrifice, sincerity, and compassion lost in the madness of money-making, and in the madness of war.

"The visible," mused Carlyle, "speedily becomes the bestial, when it rests not on the invisible." How true and how prophetic—when the vision fails, the people perish. Is not the World War proof conclusive that men failed to realize that the hard facts of the visible, gold, and the things gold buys, are nothing as compared with the invisible? They were the by-products merely of the spirit of man, and by that spirit they were destroyed when it turned sour in the midst of plenty, and he became a prey to the deadly sins.

No nation can be untrue to man—poor as well as rich—without sooner or later paying the penalty. Indifference in civic matters is the canker at the root of our free institutions. It is patriotism gone to seed. We have been too much absorbed in our own private affairs. We have not cared enough for the priceless fabric of liberty transmitted to us as the most precious of heritages. In our ease and our comfort we have forgotten that every gift is accompanied by the obligations to do. All we have to do is to be true to ourselves and America will save and lead mankind. The dangerous element in our land to-day is the man who teaches the people to want what they can not have. Nature will not yield her gifts except in return for effort. Agitation, idleness, and contempt for the rights of others means debt, poverty, and misery. Justice is not a thing to be talked about—it is a thing to be administered in the courts. It is the warp and the woof of all liberty. It is not a fanciful, and it is an attainable thing. It may be difficult to obtain, when people are disturbed by opposite motives, and swayed by conflicting interests, but this is not a rogue's world or a fool's paradise.

Liberty is the truth lived 100 per cent—and the truth is the eternal harmony of things under God—in a government of the people, by the people, and for the people. My friends, our institutions have not been fairly tried, because ever when called upon to do something for them we begin to make excuses. We need not only admonitions to diligence but exhortations to patriotism. Upon our dead selves as stepping stones we have not risen to higher things. The men and the women of these United States are proud and honest. They love their country and they respect its institutions. They know that every citizen is a stockholder and that it is his and her duty to forget all their prejudices and to unite for the common good if they would build for posterity and benefit themselves personally. They also know that if they approve politically what they condemn in their moral or business life, that they have not only failed in their civic duty but they have entered the wedge that will destroy them individually and nationally.

By wisdom, industry, morality, and valor this Republic has arisen to stand against the world. Our principles are the best and our opportunities superior to any ever yet offered to man. But there will be darkness in the days to come, dangers for our courage, temptations for our virtues, doubts for our faiths, and sufferings for our fortitudes. The dangers will come from within. The worship of self, the love of power, the lust for gold, the decay of public faith, the weakening of domestic virtue, and the lack of private worth.

These are the perils that threaten our future, the traitors that infest our camp. There can be no peace between them and our safety, nor can we avoid them and turn back. It is not enough to rest upon our past. No man nor nation can stand still. We must mount upward or go down. We must grow better or lapse to worse. It is the eternal law and we can not change it. The future rests with us. The fate of humanity may be in our hands. The pleading voice choked with the sob of the ages is lifted to us. It beseeches us in the name of God, in the name of charity, in the name of justice to be brave, generous, consistent, and true, lest we, too, go the way of the earlier nations. It warns us to be virtuous, patriotic, and above all else to sustain our Constitution and love our country. Oh, how incarnate is this love of country. We can not tell what it is, but let the flag unfurl and rustle above our heads, and then how consciously we feel it in our hearts.

West Virginia believes that above the desires of men move the majestic laws of God, and that we are as American citizens entrusted with all that man has gained by dipping into the future as far as the human eye can see. She never acts a part. She knows that after centuries of mobilization certain hostile and irreconcilable forces are meeting in desperate conflict; that there are no neutrals and the struggle is on. She does not watch the battle from afar, and she does not cry, "Watchman, what of the night?" She is open, not veiled. She is simple, natural, and unaffected. She practices the high diplomacy of truthful speech—the consummate tact of direct attention. She dares to seize principle with a giant grasp, assume responsibility at any hazard, suffer sacrifice without pretense, and bear slander without reply. She is conspicuous in her respect for authority and her resistance to abuse. She capitulates to no unworthy cause, but carries her flag high at the point of a clear and a blameless conscience. Never, in all her onward and upward march, was West Virginia more needed than now as a teacher of the priceless lessons of American liberty to our citizens, both native and foreign born.

Not mere love of country, which is commonplace, not mere willingness to fight and die, which is sweet and glorious, but the specific and mighty emotion of patriotism which is love of home and soil, as the place of our birth or adoption, as the land where our fathers rest, the spot where the gentle and the brave of our blood and our love sleep their last hallowed sleep, until as immortals they awake to the glories of the life to come. If we can—and we can if we will—inspire our people with such ideals, until they work as a leaven, then our influence for national betterment faces a future not to be measured, and a power not to be estimated. Yes; West Virginia—Virginia's youngest and fairest daughter—has the opportunity that comes to few of her sister States, so to stimulate the civic reason and virtue that the memories of a common struggle, a common ancestry, a common freedom, and a common justice shall silence the reckless voices and so knit this North, this South, this East, this West, together in a common brotherhood for domestic and national purposes that we as a people shall stand imaged in all time:

Like some tall cliff that lifts its awful form,
Swells from the vale, and midway leaves the storm
Though round its breast the rolling clouds are spread,
Eternal sunshine settles on its head.

RECESS

Mr. SMOOT. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and the Senate (at 5 o'clock and 10 minutes p. m.) took a recess until to-morrow, Thursday, September 26, 1929, at 11 o'clock a. m..

SENATE

THURSDAY, *September 26, 1929*

(*Legislative day of Monday, September 9, 1929*)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

THE JOURNAL

Mr. JONES. Mr. President, I ask unanimous consent that the Journal for Monday, September 23, Tuesday, September 24, and Wednesday, September 25, may be approved.

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

PETITION—LOBBYING IN WASHINGTON

The VICE PRESIDENT laid before the Senate a resolution adopted by the junior committee of the National Patriotic Association at Chicago, Ill., favoring a thorough investigation of all lobbying agencies in the city of Washington, which was referred to the Committee on Naval Affairs.

REPORTS OF POST-OFFICE NOMINATIONS

Mr. PHIPPS, as in open executive session, from the Committee on Post Offices and Post Roads, reported sundry postal nominations, which were ordered to be placed on the Executive Calendar.

BILLS INTRODUCED

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

By Mr. GREENE:

A bill (S. 1759) granting a pension to Susan Dana; to the Committee on Pensions.

By Mr. BLACK:

A bill (S. 1760) for the relief of St. Paul's Episcopal Church, Selma, Ala.; to the Committee on Claims.

By Mr. THOMAS of Oklahoma:

A bill (S. 1761) for the relief of Lucius K. Osterhout; to the Committee on Military Affairs.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

A bill (S. 1762) granting an increase of pension to Katie West (with accompanying papers); to the Committee on Pensions.

By Mr. WATSON:

A bill (S. 1763) granting an increase of pension to Emma D. Jones (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO THE TARIFF BILL—COWPEAS AND CHERRIES

Mr. JOHNSON submitted two amendments intended to be proposed by him to House bill 2667, the tariff revision bill, which were ordered to lie on the table and to be printed.

WITHDRAWAL OF PAPERS—ANNA M. BARNES

On motion of Mr. PHIPPS, it was

Ordered, That Exhibits A and B, attached to the papers accompanying the bill (S. 5305) granting a pension to Anna M. Barnes, Seventieth Congress, second session, be withdrawn from the files of the Senate, no adverse report having been made thereon.

EXECUTIVE MESSAGES

Sundry messages in writing were communicated to the Senate from the President of the United States by Mr. Latta, one of his secretaries.

WORLD WAR SOLDIERS FROM WYOMING BURIED IN FOREIGN COUNTRIES

Mr. WARREN. Mr. President, since we enacted legislation in the Seventieth Congress enabling the mothers and widows of our World War soldiers, sailors, and marines, who lost their lives in Europe and are interred there, to make a pilgrimage to the foreign cemeteries, citizens of the various States have expressed a desire to learn how many heroes who made the supreme sacrifice lie at rest in foreign soil, and we have ascertained from time to time, from lists which have been printed in the RECORD, that many families throughout the country have left their dead "over there," believing that—

As a tree falls, so shall it lie.

Recently I asked the Quartermaster General of the Army to furnish me a list of the Wyoming men whose remains were left interred in Europe's soil, and I now have from him the papers I am sending to the desk. I ask that they be printed in the RECORD as a mark of respect and honor to those valiant men of my State and to their mothers, wives, and other surviving relatives. Although my State is small in population, being the smallest but one in the Union, many more than a hundred brave men from Wyoming lie buried in foreign countries.

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

KEY TO PERMANENT AMERICAN CEMETERIES IN EUROPE

FRANCE

No. 1232. Meuse-Argonne American Cemetery, Romagne-sous-Montfaucon, Meuse.

No. 1764. Aisne-Marne American Cemetery, Belleau, Aisne.

No. 34. Suresnes American Cemetery, Suresnes, Seine (near Paris).

No. 636. Somme American Cemetery, Bony Aisne.

No. 608. Oise-Aisne American Cemetery, Seringes-et-Nesles, Aisne.

No. 1233. St. Mihiel American Cemetery, Thiaucourt, Meurthe-et-Moselle.

BELGIUM

No. 1252. Flanders Field American Cemetery, Waereghem, Belgium.

ENGLAND

No. 107-E. Brookwood American Cemetery, Brookwood (near London), England.

Deceased soldiers from Wyoming buried in cemeteries in Europe

Name	Rank and organization	No.	Grave	Row	Block
FIRST DIVISION					
England, Richard A	Pvt. 1 cl. Co. M, 26th Inf	1232	13	24	B
Elieff, Daniel	Pvt. Co. B, 1st M. G. Bn	1232	25	18	B
Miller, John C	Pvt. 1 cl. Co. D, 3d M. G. Bn.	608	35	33	D
SECOND DIVISION					
Brandstetter, Ferdinand.	Pvt. Co. I, 9th Inf	1764	29	2	A
Tomich, Joseph	Pvt. Co. F, 9th Inf	1232	23	19	A
Buhr, John J	Pvt. Co. M, 23d Inf	1764	24	4	B
Crouch, Walter L	Cook, Co. A, 2d Engrs	1764	33	2	B
Van Leuven, Ernest	Pvt. Co. A, 2d Engrs	1232	20	17	A
Yingst, Chauncey F	Sgt. Co. A, 2d Engrs	1232	37	7	H
THIRD DIVISION					
Coe, Fred V	Pvt. Hq. Co. 7th Inf	1232	13	40	C
Stough, Donald C	Pvt. Co. A, 7th Inf	1764	79	8	A
Vine, Harry F	Pvt. Co. L, 30th Inf	1232	8	5	D
Bean, Frank L	Pvt. 1 cl. Co. A, 6th Engrs	1232	5	29	H
FOURTH DIVISION					
Arthurs, Peter	Pvt. Co. A, 58th Inf	608	26	7	B
Mares, John	Pvt. Co. D, 58th Inf	608	23	12	D
Picha, Frank J., alias Bowman, Frank J.	Pvt. Co. E, 58th Inf	1764	67	7	A
Stathakis, Bollos	Pvt. 1 cl. Co. G, 58th Inf	1232	10	26	D
Bates, Milford H	Pvt. 1 cl. Co. K, 59th Inf	1232	13	27	H
Parr, Russel	Pvt. Co. E, 59th Inf	1764	32	4	A
FIFTH DIVISION					
Moriarty, Edward T	Pvt. Co. M, 61st Inf	1232	20	39	H
Gray, Artie N	Wag. Co. D, 7th Engrs	1232	35	40	D
SIXTH DIVISION					
Hawley, Mones J	1st lt. 11th F. A	1233	11	18	D
EIGHTH DIVISION					
Washburn, Frank A	Pvt. Co. F, 8th Inf	608	26	39	D
TWENTY-SIXTH DIVISION					
Mobius, Frank	Pvt. Co. G, 102d Inf	1232	12	38	G
Monroe, Geo. H	Pvt. Co. F, 102d Inf	1232	19	22	A
Dibble, Wm. H	Pvt. Co. D, 103d Inf	1764	37	10	A
TWENTY-EIGHTH DIVISION					
Dieterich, Lewis C	Pvt. Co. H, 110th Inf	1232	7	38	C
Jeloucan, Max	Pvt. Co. C, 110th Inf	1232	21	28	B
Jerman, Jas. A	Pvt. Co. E, 110th Inf	1232	17	21	G
Papperallis, Vaselios S	Pvt. Co. F, 110th Inf	1232	17	19	B
Emrich, Wm. G	Pvt. Co. I, 112th Inf	1233	18	23	C
Miller, Hinton D	Pvt. Co. M, 112th Inf	1232	5	28	B
Voukidis, Dimitrios	do	1232	37	2	A
THIRTY-SECOND DIVISION					
Cohen, Earl	Pvt. Co. C, 126th Inf	1232	15	39	A
Wieten, Derk J	Bugler Co. F, 126th Inf	1232	17	25	A
Collins, Wm. N	Pvt. Co. F, 127th Inf	1232	8	26	H
Dorcheus, John A	do	1232	24	33	D
Koisti, Wm	Pvt. Co. M, 127th Inf	1232	4	22	D
FORTIETH DIVISION					
Robert, Frederic C	Pvt. San. Det. 159th Inf	34	35	2	B
Devault, Charlie O	Pvt. Hq. Co. 144th F. A	1764	31	6	B
FORTY-FIRST DIVISION					
Pittenger, Wm. F	Pvt. 1 cl. Bty. D, 146th F. A	1764	19	2	B
Barber, Grant M	Sgt. Bty. E, 148th F. A	1764	14	10	A
Bitzer, Edward H	Pvt. 1 cl. Bty. E, 148th F. A	608	17	6	C
Montgomery, Robt. L	Pvt. Bty. D, 148th F. A	1232	31	28	G
Parry, Raymond F	Cpl. Bty. D, 148th F. A	1233	35	18	A
Snyder, Mack W	Sgt. Bty. E, 148th F. A	608	30	8	B
Adams, Henry G	1st lt. MD Trn. Mtr. Bty	1232	6	32	E
Brown, Clifford D	Pvt. 1 Cais. Co. 116th Am. Tn.	608	31	21	C
Edwards, Geo. E	do	608	22	33	A
FORTY-SECOND DIVISION					
Johnson, Peter G	Cpl. Co. K, 167th Inf	1232	11	43	H
Llewelyn, David	Pvt. Co. K, 167th Inf	608	27	24	B
Oldham, Wm. M	Pvt. Co. B, 167th Inf	1233	24	6	C
Smith, Joseph	do	608	17	13	B
Tor, John	Pvt. Co. E, 167th Inf	1232	37	6	F
Walker, Chas. F	Pvt. Co. D, 167th Inf	608	15	8	B
Wilkes, Edward	Pvt. Co. K, 167th Inf	1232	7	33	F
Eaton, Roy H	Pvt. Co. H, 168th Inf	1232	8	18	H
Phillips, Clifford Y	Pvt. 1 cl. Co. A, 151st M. G. Bn.	608	17	4	B
Jiloca, Lorenzo G	Cook, Hq. Det. 117th F. S. Bn.	1232	37	26	D
SEVENTY-SEVENTH DIVISION					
Bair, Chas. A	Pvt. 1 cl. Co. E, 305th Inf	1232	23	31	F
Bays, Jess J	Pvt. Co. C, 305th Inf	1232	36	46	D
Bendotti, Attilio	Pvt. Co. K, 305th Inf	1232	21	3	C
Davis, Edward	Pvt. Co. C, 305th Inf	1232	24	18	F
Jensen, Otto C	Pvt. Co. E, 305th Inf	1232	36	14	E
McCauley, Chas	Pvt. Co. C, 305th Inf	1232	8	38	F
McKeenan, Arthur T	Pvt. Co. E, 305th Inf	1232	13	43	A
Ryan, Thos. C	Pvt. 1 cl. Co. L, 305th Inf	1232	33	46	D
Schmitt, Geo	Pvt. Co. H, 305th Inf	1232	23	27	B
Caldwell, Samuel H	Pvt. Co. D, 308th Inf	1232	27	8	G
Inama, Guido	Pvt. Co. C, 308th Inf	1233	28	3	C
Minter, Jas. C	Pvt. Co. H, 308th Inf	1233	3	1	C
Williams, Llewelyn	Pvt. Co. F, 308th Inf	1233	3	7	A
SEVENTY-NINTH DIVISION					
Anderson, Clarence J	Pvt. 1 cl. Co. E, 315th Inf	1232	30	14	D

Deceased soldiers from Wyoming buried in cemeteries in Europe—Con.

Name	Rank and organization	No.	Grave	Row	Block
EIGHTIETH DIVISION					
Webster, Everett J	Pvt. Co. F, 317th Inf	608	13	33	A
EIGHTY-FIRST DIVISION					
Riley, Kenneth F	Pvt. Co. I, 321st Inf	1232	22	1	H
Lourand, Louis	Pvt. Co. E, 322d Inf	1232	14	1	H
EIGHTY-THIRD DIVISION					
Vickery, Edgar A	Pvt. Co. F, 329th Inf	608	32	27	D
EIGHTY-EIGHTH DIVISION					
Lucero, Octaviano	Pvt. Co. A, 351st Inf	1232	19	19	G
Lowell, Luke L	Pvt. Bty F, 339th F. A	1764	32	8	B
EIGHTY-NINTH DIVISION					
Klegin, Lawrence F	Pvt. 1 cl. M. G. Co. 356th Inf.	1232	6	43	F
NINETIETH DIVISION					
Crow, John	Pvt. Co. E, 357th Inf	1232	15	2	E
Green, Archie B	Pvt. Co. C, 358th Inf	1232	1	37	D
NINETY-FIRST DIVISION					
Asimakopoulos, Demetrios.	Pvt. Co. I, 361st Inf	1232	27	18	G
Coziah, Frank L	Pvt. 1 cl. Co. D, 361st Inf	1232	32	16	C
Jensen, Fred	Pvt. Co. I, 361st Inf	1232	20	17	H
King, Jesse L	Cpl. Co. D, 361st Inf	1232	16	34	A
Lysberg, Christian J	Pvt. Co. A, 361st Inf	1232	1	27	A
Duncan, Fred R	Sgt. Co. E, 362d Inf	1232	19	31	E
Mathison, Harry L	Sgt. Hq. Co. 362d Inf	1232	7	22	H
Nafez, Amen R	Sgt. Co. E, 362d Inf	1232	39	29	E
Olsen, Swantine H. E	Pvt. Co. B, 362d Inf	1232	7	34	F
Thomas, Joseph	1st sgt. Co. E, 362d Inf	1232	16	38	A
Kline, Lloyd W	Pvt. Co. C, 363d Inf	1232	40	43	B
Seaton, Raymond B	Pvt. Co. D, 363d Inf	1232	26	42	B
Snow, Travis L	Pvt. Hq. Co. 363d Inf	1232	22	42	E
Watts, John H	Pvt. 1 cl. Co. B, 363d Inf	1232	16	4	F
Hand, Elmer F	Pvt. M. G. Co. 364th Inf	1232	28	39	F
Schindler, Louis F	Pvt. Co. D, 364th Inf	1232	14	2	B
Woodcock, Loran M	Pvt. 1 cl. Co. D, 364th Inf	1232	23	24	A
Maxey, Clark N	Pvt. Co. A, 316th Engrs	1232	39	23	G
NONDIVISIONAL ORGANIZATIONS					
Robertson, Scott R	Pvt. Vet. Hosp. No. 8	1764	43	11	B
Overton, Oakley D	Pvt. Med. Rpl. Unit No. 41	608	20	12	A
Altop, Jas. L	Pvt. Med. Rpl. Unit No. 44	608	15	29	B
McDonald, Duncan	Pvt. Ft. Riley Rpl. Unit No. 47.	608	35	29	D
Layland, Chas. L	Pvt. Med. Off. Tn. Camp	608	20	11	C
Wickland, Bernard B	Pvt. 306th Motor Cycle Co	1233	10	21	B
Peterson, Morton	Pvt. 1 cl. Co. F, M. R. S. Unit 309.	608	27	15	A
Cavender, Jos. W	Col. Field Art	608	34	28	C
Adams, Birt	Pvt. 22d Co. Cp. Pike A. R. D.	608	7	25	B
Baker, Lloyd Labon	Pvt. 20th Co. Cp. McArthur S. R. D.	608	35	31	B
Jones, Earl	Pvt. 21st Co. Cp. McArthur. S. R. D.	608	1	12	C
Trentez, Emil	Pvt. Co. P, 22d Engrs	1764	3	11	B
Prince, John B	Sgt. Co. B, 42d Engrs	1232	2	30	F
Butler, James	Pvt. Co. B, 44th Engrs	608	19	11	A
Dutt, Earling F	Sgt. Co. A, 345th Bn. Tk. Cps.	1232	39	9	C
Hughes, Geo. W	Pvt. 1 cl. Co. A, 48th Regt. Tr. Cps.	1233	25	23	A
Rascoe, Chas. C	Pvt. 78th Co. Trans. Cps	1233	17	3	A
McKim, Orville C	Pvt. 80th Co. Trans. Cps	1232	29	6	B

CALL OF THE ROLL

Mr. BORAH obtained the floor.

Mr. FESS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. Does the Senator from Idaho yield for that purpose?

Mr. BORAH. I do.

The VICE PRESIDENT. The clerk will call the roll.

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

Allen	Fess	Jones	Robinson, Ark.
Ashurst	Fletcher	Kean	Robinson, Ind.
Barkley	George	Kendrick	Sackett
Bingham	Gillett	Keyes	Sheppard
Black	Glass	King	Shortridge
Blaine	Glenn	La Follette	Simmons
Blease	Goff	McKellar	Smoot
Borah	Goldsborough	McMaster	Steck
Bratton	Greene	Metcalf	Steiwer
Brock	Hale	Moses	Swanson
Brookhart	Harris	Norris	Trammell
Broussard	Harrison	Nye	Tydings
Capper	Hastings	Oddie	Vandenberg
Connally	Hawes	Overman	Walsh, Mass.
Couzens	Hayden	Patterson	Walsh, Mont.
Cutting	Hebert	Phipps	Warren
Deneen	Heflin	Pine	Waterman
Dill	Howell	Pittman	Watson
Edge	Johnson	Reed	

Mr. FESS. My colleague [Mr. BURTON] is detained from the Senate on account of illness. I will allow this statement to stand for the day.

Mr. CAPPER. The following members of the Committee on Agriculture and Forestry are detained from the Senate in attendance upon a hearing before that committee: Mr. MCNARY, chairman; Mr. NORBECK, Mr. FRAZIER, Mr. GOULD, Mr. THOMAS of Idaho, Mr. HATFIELD, Mr. TOWNSEND, Mr. WALCOTT, Mr. SMITH, Mr. RANSDELL, Mr. CARAWAY, Mr. WHEELER, and Mr. THOMAS of Oklahoma.

Mr. HARRISON. I wish to announce that my colleague the junior Senator from Mississippi [Mr. STEPHENS] is detained from the Senate by illness in his family.

The VICE PRESIDENT. Seventy-five Senators have answered to their names. A quorum is present. The Senator from Idaho is entitled to the floor.

INCORRECT COTTON REPORT

Mr. HEFLIN. Mr. President, will the Senator from Idaho yield to me to submit a brief Senate resolution?

Mr. BORAH. I yield for that purpose.

Mr. HEFLIN. I think it will take but a moment. If it leads to debate I shall not press it.

The VICE PRESIDENT. The resolution will be read.

The Chief Clerk read the resolution (S. Res. 123), as follows:

Whereas on September 23, the day fixed by law for the publication of the ginners' report of American cotton ginned to that date, the Bureau of the Census caused to be given out and published a report purporting to be a correct and accurate report of the number of bales of American cotton ginned this season up to September 23; and

Whereas when complaint was made that the ginners' report given out for publication by the Bureau of the Census on that date was not justified by the facts regarding the actual number of bales of cotton ginned up to September 23, the Bureau of the Census admitted that its report published on September 23 contained figures showing 300,000 bales more of cotton ginned up to that date than the Government figures justified; and

Whereas said incorrect and misleading ginners' report resulted in depressing the price of cotton: Therefore be it

Resolved, That the Bureau of the Census is hereby requested to give to the Senate all the information that it has as to why and how this incorrect and harmful report on cotton ginned to September 23 was made and given out for publication, and what steps, if any, have been taken to prevent the doing of such a thing again.

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

Mr. JONES. Mr. President, the chairman of the Committee on Agriculture and Forestry [Mr. MCNARY] is not here. I think the resolution ought to go over until to-morrow.

The VICE PRESIDENT. The resolution will go over under the rule.

REVISION OF THE TARIFF

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes, the pending question being on the amendment submitted by Mr. SMOOT.

Mr. BORAH. Mr. President, I desire to submit some observations on the question which is now before the Senate, involving what are known as the flexible provisions of the tariff bill.

We have had flexible provisions in the law for about seven years. The first question which we naturally ask ourselves is, What has been accomplished in the way of eliminating or reducing the inequalities between industry and agriculture? That is, and has been for some time in this country, the most important matter connected with the question of the tariff. It has for some time been a serious national problem.

The second proposition which presents itself to our minds is, What has been achieved in the way of reducing the cost of living or, as it were, protecting the consumers under the present system or under the tariff law as it was enacted in 1922?

Let us first, Mr. President, recall the circumstances and conditions under which the law of 1922 was enacted. It was here for consideration and became a law shortly after the war, at a time when economic conditions were unsettled and when it was most difficult to determine the facts upon which we assumed to base our duties, the cost of production at home and abroad. I think it is fair to say, at least it was my understanding, that the tariff law of 1922 was enacted with the design of holding the prices of industrial articles or manufactured goods as nearly to the war level as was possible or practicable under the law; the duties upon commodities were placed so high that it would seem practically to preclude the importation of goods from foreign countries.

It was believed, owing to conditions in Europe and the necessity of Europe to manufacture and to sell, that unless the wall was practically prohibitive the goods would inevitably come over. I think it was clearly understood at the time among those who were responsible for the bill that the duties were based upon that condition of affairs, and for its purpose that objective.

Since that time the most remarkable economic changes which have ever occurred in the same period of time in the world's history have taken place. It was assumed, even by the leader of the tariff discussion upon this side, the much-abused but sincere Senator from Utah [Mr. SMOOT], that the first and primary and greatest task of the Tariff Commission under the flexible-tariff provision would be to trim down and reduce tariff duties. He so stated, and I have no doubt it was stated with entire sincerity, because, as I say, it was understood at the time that the conditions under which we were levying the duties were such that all doubts were resolved in favor of high duties, and upon the assumption that economic changes would ensue, it was presumed that reductions would inevitably follow under the provisions of the flexible tariff.

As an illustration of the view I desire to present to the Senate, let us review the workings of the Tariff Commission with reference to this particular question of reduction. What have they accomplished in these seven years? What reductions have been made? What relief has been given to the consumers of the country under a law enacted at a time when there was practically a condition of war?

To my mind the record is one which condemns the Tariff Commission if we are to regard its operations as having anything whatever to do with the question of reducing tariff rates. In that respect it has been as inflexible as one could well conceive any law to be. I take the position that not a single reduction of any moment whatever has been brought about or been recommended by the Tariff Commission; that not 1 cent of the tremendous burden laid upon the consumers of this country by reason of conditions under which the tariff was enacted has been lifted by the action of the Tariff Commission during these seven years.

Let us not content ourselves with general statements, but go into the record. I did not have the opportunity on yesterday, owing to the fact that I was engaged in the Committee on Foreign Relations with my colleague on an important hearing, of listening to the able Senator from Wisconsin [Mr. LA FOLLETTE]—worthy son of a noble sire—and it may be possible that I shall cover some part of that very able speech as it is reported to me, but I want to call attention to some of the indisputable historic facts in regard to the work of the Tariff Commission, since we are asked, from the highest authority, to reenact this legislation for the purpose of protecting the public interests.

The Tariff Commission made a reduction of the duty on bobwhite quail; that was one of the five reductions which they made. Possibly there may have been some reason for it, but the reason which would exist in that case, we shall be able to show when we come to the schedules, existed to a thousandfold greater extent in the case of giant industries which the commission dared not touch; industries which were reaping a profit unheard of in the history of industry, gathered behind a wall insuperable to the outside world, and within the protection of which they were able to make their own prices and enjoy their own startling profits.

However, while the Tariff Commission reduced the duty on bobwhite quail, they increased the duty on straw hats.

They reduced the duty upon brush handles, a matter of tremendous moment to the great mass of the people of the United States; and no doubt a vast amount of work was necessary during those seven years. However, as an offset, the commission increased the duty on pig iron; and as we shall show when we come to the pig-iron schedule, under circumstances which simply added profits to already exorbitant profits.

I am not so much interested in a specific schedule just now as I am in inquiring what has been the bent of the commission; who has controlled its policies that it should take up these trivial, unimportant items and pass by the matters of tremendous import to the people of the United States. The commission reduced the duty on cresylic acid and increased the duty on plate glass. They increased the duty on wheat, and at the same time reduced the duty on mill feed, which is the exterior or the hull of the wheat kernel. They reduced the duty on phenol, a chemical commodity, there being already practically no imports into this country.

There is the list of reductions after seven years of activity and effort upon the part of the Tariff Commission, dealing with a tariff enacted under the circumstances which I have narrated, and which was understood by its makers and by all the world to be one which would invite the cutting down of duties.

I want to read here a statement from one of the members of the Tariff Commission upon this general subject. He said:

> Senator SMOOT expressed the belief when the flexible provision was set up that the commission would probably receive more applications for relief through reductions than through increases in rates. His prescience would have been justified had not the commission in the first three or four years of its operation chilled and defeated the expectation that the act would prove flexible in fact as well as in name. The public is dimly aware of the fierce struggles and bitter contentions that have been provoked by an effort to get a fair and balanced administration of the flexible provision. What the country is not aware of is what fruitless, sinful waste of time, money, effort. Waste—endless, tantalizing waste!

Upon another page of his statement he says:

> The flexible provision has disappointed the high hopes of its sponsors.

I should say here in fairness to the gentleman who makes the statement that he is not an advocate of the repeal of the flexible tariff provision; he is in favor of maintaining it, hoping that under better conditions it may prove helpful; but, in my opinion, he has put his finger upon the fatally weak point in the proposal, which never can be remedied.

> The flexible provision has disappointed the high hopes of its sponsors. The blame should be placed where it belongs. In such cases as the cotton hosiery investigation data, scientifically procured, pointed to a lower duty. The opinion of the commission's expert was on the side of a reduced duty. The case was killed by methods which were as tortuous as they were indefensible.

Here I digress to say that we are now asked practically to turn over the rate-making power of this vast people to a commission on the inside of whose chamber the public will seldom be permitted to look. I can not conceive of a more serious proposition than that of giving the rate-making power, the tax-levying power, to a small coterie of men, working behind closed doors, subject to the influence and engaging in tortuous methods which are now revealed by one of the members of the commission itself.

> Certain ingenious "adjustments" were adopted. These "adjustments" would have done credit to the fifteenth century Italian toxicologist casting about for a lethal potion that would decree death without leaving a telltale trace of poison upon his victim.
>
> The commission's reports to the President were regarded as confidential, but it may happen that things which are done in secret may some day be proclaimed upon the housetops. The data in the cotton hosiery report, in the Canadian log report, and the Canadian halibut report, pointing infallibly to reductions in duty, are now accessible to the public, and the unbiased investigator who may put himself to the pains of examining these complex reports will agree with the writer that a wrong was done both the commission and the public in decreeing unmerited death to these important lower-duty cases.

Mr. President, seven years have passed, seven years which were calculated to give play to this commission in accomplishing, or at least in directing, a course indicating a purpose to relieve the consumers of the Nation from what I conceive to be unjust rates in many particulars, and also to bring about more nearly equality between the industrialists and the agriculturists of the United States in the matter of tariff duties.

The best evidence of the fact that the Tariff Commission has been without effect, that it has accomplished little or nothing along the lines which it was supposed to work, is the fact that the last presidential campaign in part was fought out on the proposition of adjusting the inequalities of the tariff law now upon the statute books. Although seven years had passed, so egregious, so pronounced were the conditions with reference to the tariff that the last campaign turned, in a large measure, upon an adjustment of tariff duties.

The commission had accomplished, as we felt in the campaign, practically nothing. I submit to my Republican friends: Suppose we had said in the campaign, "These inequalities exist; this readjustment is necessary; but we are going to leave it to the Tariff Commission, instead of doing it as a Congress"; what do you think would have been the effect upon the voters of the United States? Suppose we had said then that we proposed to shirk our responsibility, to abandon our sovereign obligation imposed upon us by the Constitution, and leave it to six or seven men sitting behind closed doors to adjust tariff rates, what the effect would have been in the campaign no man would have dared to say. Who would have ventured to say to the voters, "We, the Congress, will not seek to adjust the rates; we are going to shirk that duty; we are going to leave you to the tender mercies of a Tariff Commission." Had any Republican

orator made such a statement, I suspect the candidate for the Presidency would have repudiated it.

Now, Mr. President, we come to another very important feature of this tariff discussion.

The President has deemed it proper to take part in this discussion, to take a hand in the proceedings. I do not criticize the President for having issued his statement. Had he been establishing a precedent, had it been the beginning of such a practice, I should condemn it in unmeasured terms. It is not my idea of the division of the departments of Government under the Constitution.

For a President of the United States, the leader of his party, holding in his control at the beginning of his term a patronage which belongs to no ruler upon the earth, to declare that this or that provision should or should not be voted for in the Senate or Congress, in my judgment, is establishing a practice and a precedent which we in time will have cause to regret. I can not help but say here that I have found hearty accord in my feelings with the statements of the leader upon this side, made some two days ago. But this, Mr. President, is a practice which unfortunately has been going on for a long time. It has been especially in vogue since the presidential terms of General Grant. It has been carried on for the last 30 years or more—yes; for the last 60 years. Therefore I do not criticize the President for the fact of issuing the statement, however, much I may disagree with the views which he expressed. But, Mr. President, having put his hand to the plow, the President can not turn aside because of rough furrows. Having undertaken to shape this bill, the President must go through to the end, and assume with us the responsibility for its terms—not merely by his veto, which he has heretofore expressed an unwillingness to rely upon, but by his influence here in this Chamber. Therefore while I am not going to criticize the fact that he issued his statement, I do say that it is the duty of the President to advise this body and to advise the country in the same plain and specific way whether or not the industrial schedules of this bill meet with his approval. We are entitled to know, the country is entitled to know, the consumers are entitled to know.

The real fight here is between the agricultural interests and the industrial interests. We feel that we are fighting for equality; that that equality is constantly removed by the fact that duties are substantially increased upon the things we have to buy, even though they may be increased to some extent upon the things we have to sell. The most important question to the country, the one thing which will be fought out here until the snows fall, is whether these industrial schedules are justified; whether they shall be maintained, or increased, or diminished.

I ask from the floor of the Senate that the President advise this body and advise the country, as he did with reference to the flexible tariff provision, whether he approves of the industrial schedules in this bill. Does he approve of the duty upon cement, upon pig iron, upon other commodities which increase the profits of the Steel Corporation? Does he approve of the duty upon shoes? Secondly, is he satisfied with the duties which have been levied upon agricultural products? And, finally, will he advise us whether he is satisfied that this bill meets the pledges and the promises which he made in the last campaign?

If a President is ever permitted to speak before he exercises the veto power, this is one matter upon which he is authorized to speak. He stated that the most imminent question in American politics is the agricultural question; that one way of relieving the inequality which exists is through the tariff; and in view of the fact that he is proposing to shape this bill we have a right to be advised as to whether the bill in its present form conforms to the pledges of the party under which he was elected, and to the pledges which he himself made.

I say this, Mr. President, in all respect for the President, and in profound respect for the Presidency; but it is the vital issue in this Chamber. Had not the President spoken, I should not have made any such suggestion; but, having spoken, the agricultural interests of this country want to know the President's view as to whether this bill complies with the pledges which were made. Will he say to agriculture, you have received all you were promised? Will he say justice has been done the American farmer? I appeal to him to advise the farmer, to advise this body, to advise the country.

If our friends upon this side who believe in the flexible-tariff provision, and believe that it is capable of ironing out inequalities or adjusting rates where it is necessary to adjust them, have the confidence in it which they express, will they not permit the industrial duties in the law to remain as they are, and wait until the Tariff Commission can iron them out? In other words, in view of the fact that we are importing less than 4 per cent of the manufactured stuff that is consumed in this country, will they not be willing to show their faith in the flexible-tariff provision by permitting duties of that kind to remain upon the statute books until the Tariff Commission, through this flexible-tariff law, may iron them out? Will not the President say to this Chamber, "Lay off on your industrial duties. Primarily, this is a session for agricultural relief. Lay off of your industrial duties until our Tariff Commission can adjust them satisfactorily."

Mr. President, the time to do justice to the agricultural interests is right now, in this session. That was the fight in the campaign. That was the object of calling the session. If we permit this bill to pass as it is written, how long will it take the Tariff Commission to iron out the inequalities? I asked an expert last night, and he said 135 years at the rate at which they had been going recently.

We went into the campaign pledging ourselves to rectify the agricultural situation, and one of the methods was said to be through tariff legislation. Now is the time to do it; and I say that it not only devolves upon you and upon me but it devolves upon the President to see that these schedules are right, and to pass our O. K. upon them at this session, and not transfer them to the remote consideration of a tariff commission. So I say, Mr. President, in all fairness and in all justice, the President having conceived that it is his duty to shape the terms of this bill, we ought to have his judgment as to the measure as it now stands.

Senators of the West, this is the only body left in the Government where we have anything like an equality. This is the only body left where there is anything like an equality in shaping the economic policies of the country as between the industrial interests and agriculture. We can not conceal the fact that there is an economic conflict in that situation. The industrial interests are naturally indisposed toward duties upon farm products, or upon raw materials, as was so well illustrated in this bill with reference to manganese. They are naturally desirous—it is human nature to desire—that their raw materials be free, and that their food products be free.

It has not been so very long since we were fighting in this Chamber against absolute free trade for agriculture and highly protective duties for industry. There is an inevitable and natural conflict there.

This is the only body left where there is anything like an equality in that tremendously important fight. In this body the vote of California is equal to the vote of Pennsylvania. In this body the vote of Oregon is equal to the vote of Massachusetts. In this body the vote of Washington is equal to the vote of New York or of any other great Eastern State. This is the only place where there can be anything like an equality of position and of prestige and of power in working out and shaping the policies which relate to the whole Nation.

Understand me, my friends. I again say that I am not speaking as a tariff-for-revenue advocate. I am not speaking against the protective system; but I do say in all sincerity that the protective system with reference to industrial schedules has grown and expanded until it has reached the point where it is practically an embargo, and by reason of that fact there is an inequality between the agricultural and the industrial interests, and it never can be otherwise so long as that continues.

Where is that matter to be fought out? Are we western Senators to be asked to transfer our power in that contest to a Tariff Commission, where the West will have one vote at most? Without challenging the integrity of the men who may sit upon that commission, Tom Reed once said that no man rises above his environment, and my experience with the Tariff Commission is that Tom Reed was absolutely right.

The able Senator from Pennsylvania [Mr. REED] the other day spoke movingly of his interest in agriculture, of his sympathy for the farmer, and of the fact that he had more farmers in his State than several of us western Senators had in all of our States combined. I do not challenge the Senator's sincerity of expression or sincerity of attitude; but your farmer, Senator, is as different from our farmer economically as night from day. Your farmer lives in the midst of a great industrial region. He can diversify his crops to meet the demand. His market is next door. He can dump his products into the hopper even from his farm. We are a thousand, two thousand, three thousand miles from the market; and our economic situation is as different from that of your farmer as if we were in two different countries.

I do not challenge what the Senator stated was his feeling in regard to the matter; but I say that he, like the Tariff Commission, has no more conception of the agricultural question, as we see it, than we have of many of his economics.

This is a vast country, a tremendous country, of vastly varied interests.

We in the West are now a developing country, a growing country. We are like this country was when Clay was speak-

ing, and when the men of his time were making the fight. Protection is more applicable to us than to any other part of the country, and more necessary in order that we may develop; and it is because of that fact that we must necessarily guard the power that we have, and the rights we have, upon this floor.

Therefore, aside from all other questions, I am unwilling to leave the West and the great agricultural interests to the control or direction or decision or judgment of a Tariff Commission; that is to say, a Tariff Commission whose judgment finally crystallizes into rates, which is the design of this bill.

I might say, Mr. President, I do not know what the future has in store, but the Tariff Commission, as it has been made up from 1921, has been composed to a dominant degree of lobbyists for the industrial interests of the United States.

The chairman of that commission, a man of very exceptional ability, I should say, was for years the representative here of those interests which doubt the feasibility or the wisdom of duties upon farm products at all. He comes from that region of the country where has originated every time the movement to put farm products upon the free list. He was a spokesman of an organization and a club which advocated or, like Saul, consented to that doctrine. It is too much to expect him to escape the convictions of a lifetime. It is too much to expect him to put aside those convictions which he had long entertained and long promulgated before the people.

Another gentleman who was named upon the Tariff Commission was a noted, distinct lobbyist of an eastern manufactured product. He remained upon the Tariff Commission for a time, but evidently concluding that he could not render as much service to his people upon the commission as he could as a tariff lobbyist, he retired and went again into the service of his old master. Since this tariff bill has been under consideration he has assumed to criticize and denounce to their faces men under the employ of the commission who have appeared before the Finance Committee because they gave facts which he thought were not to his interest. We of the West are asked to leave our interests with a body some of whom are thus controlled by their predilections and by their preconceived interests and policies.

Mr. President, are we western Senators to be asked, under these circumstances, to say that we are willing to surrender our equality of power, to have it turned over to a commission in which we will have practically no representation at all?

Mr. President, I want to say something—and I hope to be brief—upon the merits of this proposition aside from what I deem to be its practical features as I have been discussing them. First, what is the extent and nature of the power which we are asked to delegate? I venture to say that there has never been anything like these proposals in the history of the United States; there is no precedent for them. There has never been an instance in which the Congress of the United States has undertaken to delegate any such power prior to the time when these delegations were proposed. They are without parallel or precedent in our history.

This is the House provision:

> In order to put into force and effect the policy of Congress by this act intended, the President shall investigate the differences in conditions of competition in the principal market or markets of the United States between domestic articles and like or similar competitive imported articles.

Mr. President, that covers every function, every intellectual effort that may be involved upon the part of the legislator when he writes duties in a bill of this character. There is first an effort made to ascertain the facts. They are ascertained, we will assume, as nearly accurately as practicable; but we all know that accuracy in that matter is simply impossible.

When the facts are ascertained, then comes the exercise of the judgment of the party who is to lay the duty. What is equality of competition as it is mentioned here? Into that enters transportation. Into that enters the conditions of the people in other countries. Into that enters labor. Into that enters the kind of government under which the people live, and the opportunity which they have to develop their individual initiative. Into that enters everything, and when that is finished at last, the party reflects and determines what in his judgment is equality of competition. When he has determined it, he establishes a rule, which is a rule of conduct for every citizen in the United States. In other words, he establishes a duty and it becomes the law of the United States, a rule of conduct which is the test of legislation.

Of course the Congress has the power to pass a law providing for certain contingencies. The law must be complete within itself. Congress also has the power in a law to provide that upon the ascertainment of certain facts, and the facts being promulgated, the law shall operate in this or that way; but the law must be complete. That which is necessary for a complete rule of conduct must be there.

The only thing Congress can delegate is the simple duty of ascertaining whether this or that particular fact is true, but when they attempt to delegate power to exercise judgment, or to reflect upon a proposition, or to determine a policy, and to write that into a rule that will become the law of the land, that is a power which, in my judgment, it is far from the power of the Congress to delegate; that is legislating, that is lawmaking, something we can not delegate.

In the amendment offered by the able Senator from Utah [Mr. SMOOT] it is provided that the President shall determine the difference between the costs of production at home and abroad. The House committee determined that that could not be done, that the results would be inaccurate and uncertain, that there was no way to arrive at that with any degree of accuracy. Hence, they declared that it was necessary to adopt a different standard, and, in my opinion, it is impossible to make such determination. But the exercise of those attributes of mind, those elements of mind, of reflection and judgment, are essential in the determination of both propositions.

Let us assume that when the Tariff Commission made a report it would make it to the Congress. What would the Congress do? The Congress would take the facts, ascertain as nearly as it could the conditions according to the facts, and then in its judgment write into the law what it deemed to be a proper duty under the circumstances.

What does the President do? He takes the report of the Tariff Commission, and, as shown by President Coolidge, he exercises his own judgment upon it. He does not say, "These facts show this as a mathematical proposition, and therefore I issue the proclamation." He says, "This does not appeal to me. This is not according to sound policy. This is not according to my judgment. Reflecting upon this matter I will do it," or "I will not do it." That is precisely what the Congress should do. The result of our action in both instances is precisely the same.

Mr. President, secondly, what power is it to which this delegation of power will relate? It is the power of taxation, it is the power of raising revenue, a power which has fundamentally, basically, peculiarly belonged to the legislative function in Anglo-Saxon history from its beginning. It is the most ancient of all legislative prerogatives. It comes down from the first meetings of the great council of the realm. There has been one power from which the Anglo-Saxon people have never been willing to divorce themselves, even under the most exacting conditions, or the most determined dominancy of great kings, and that is the power to raise revenue, the power to levy taxes. Yet, if we accept the argument of the President as he presented it on Tuesday, we are transferring to the commission and to the President the power to say what duties shall be, and determine what taxes, if any, shall be levied, and what law shall obtain.

Mr. President, suppose we passed a bill here saying that every man should pay an income tax according to his ability to pay, and then appointed a commission to determine the facts, and authorized the President to determine the amount of the tax. If this provision here is sound, in my judgment that would be a power which we would be entitled to delegate, and a power which the President could exercise.

The true rule in regard to this, I believe, was stated by the President in his campaign. I had put this aside for reference before I read the President's statement on Tuesday, and I do not care to turn aside from my intended remarks, because while it may or may not express the President's view at this time it expresses mine. The President said:

> The Tariff Commission is a most valuable arm of the Government.

With that I agree. I would be glad to have a Tariff Commission with as nearly quasi-judicial powers as possible, to ascertain the facts and to have in mind, when they are ascertaining the facts, nothing but the ascertainment of the facts, and to report those facts to the lawmaking body and the tax-levying power of the United States, which is the Congress.

> It can be strengthened and made more useful in several ways. But the American people will never consent to delegating authority over the tariff to any commission, whether nonpartisan or bipartisan.

If this does not delegate that power, I can not understand human language.

Mr. McKELLAR. Mr. President, what was the date of that speech?

Mr. BORAH. October 15.

Mr. McKELLAR. 1928?

Mr. BORAH. Yes. He continued:

Our people have a right to express themselves at the ballot upon so vital a question as this.

Quite right. It is fundamental. The people have a right to say, when they are voting for their Senator or their Representative, what their view is and what their policy is with reference to tariff, free trade, tariff for revenue, protection, ample or less ample.

That is something, in the language of the President properly construed, that can never be delegated to an irresponsible body. I say "irresponsible." I mean irresponsible to the people themselves—a body which they can not select, elect, recall, or control. Upon the question of how much tax they shall pay they have a right to vote. If not upon that question, pray what question would be interesting to the people?

There is a disposition in this country to transfer all power which is a vexing and troublesome power to some commission. It makes campaigns more agreeable. It shunts responsibility and avoids criticism.

There is only one commission to which delegation of that authority can be made. That is the great commission of their own choosing, the Congress of the United States and the President. It is the only commission which can be held responsible to the electorate.

What does that language mean? It means that the people are not willing to part with the power of laying taxes and to delegate it away from those of their own choosing. That has been the fundamental principle of Anglo-Saxon jurisprudence and Anglo-Saxon history from the first meeting of a legislative body. Kings have lost their heads in contending for this power, and men have been willing to die that the people be not deprived of the right themselves to elect those who are to lay upon them the taxes.

There is no subject over which government assumes to exercise authority of more concern to the government and citizen alike than the subject of taxation. When the citizen faces the government in the matter of taxes he is practically helpless, save when he chooses to appeal to the sovereign right of revolution. The tax which the government exacts he must pay. To pay it may imperil or ruin his business; it may take the roof from over his family; it may impoverish his children and deny them the advantages of education; but the will of the government is supreme and remorseless. Taxation has a thrilling history. It is the bravest and also the sorriest chapter in the history of the English-speaking race. It is the story of liberty, of free and independent citizenship, a story, in short, of free institutions. This the fathers understood quite as well as we understand it.

And this the fathers heeded far better than we seem disposed to do. How carefully, how persistently, they undertook to place the power of raising revenue, of imposing taxes, where it was least likely to be abused and where those who must pay the taxes could most immediately and wisely interpose political check in case of its abuse—political check, that the revolutionary spirit so often invoked in the past might not be invoked again. The House of Representatives are elected every two years—the House alone can originate bills for raising revenue. The Congress alone may impose taxes. The principle of government underlying taxation they thoroughly understood. But when you think of the burden of government in these days, the crushing weight of expenditures increasing year by year, one must conclude that the power to impose taxes is even more vital than when the Constitution was framed—it is the power of life and death over the citizen; it is the power to destroy. We are accustomed when speaking of the history of taxes to refer to the kings who have lost their heads or their crowns in attempting to impose taxes without the consent of the people. But I am interested in a more homely and a more common tragedy, that of millions of men, women, and children who daily make sacrifices that they may meet the burdens of government. I want to keep the power to levy taxes close to those who pay the taxes and do the voting.

The fathers provided that the House should originate measures of revenue and they placed the power there. In the name of God let us keep it there! It is not the question of an hour. It is not the question of a day. It is a question of years—I trust of centuries—and whether we are going to preserve this Government as it ought to be preserved and make it the obedient instrument of the people.

If Congress instinctively senses its inability to discharge the duties imposed upon it by the Constitution, if the Congress would evade or shirk the trust reposed in it by the people, let it at least summons the courage to propose openly through an amendment to the Constitution these fundamental changes, this redistribution of power. If Congress hungers for political subserviency, if it covets the ignominious rôle of display without power, of debate without authority, will we not as a parting act of courage and self-respect propose that the fundamental law be changed? Are we not willing to give the people a chance to say whether they wish the taxing power to be reposed in one man? We should not seek through subtlety, through trickery, what we dare not propose openly before those who sent us here. I do not know of a more shameless betrayal of a public trust than that of surrendering the power with which we are temporarily intrusted than of evading the obligation which for a brief season we have been willing to assume.

An ex-President of the United States said a few days ago that the President of the United States enjoys greater power than any living sovereign. Woodrow Wilson once said to me, or said in my presence, that he shuddered when he thought of the power which he possessed as a President. He is Commander in Chief of the Army and Navy. He is in charge of the foreign affairs of our Government. He has practically the war-making power, because he may so conduct foreign affairs that the declaration of war by the Congress is a formality. He has the veto power, the pardoning power. He has the appointing power of all the officers in the Federal Government. The Supreme Court of the United States has now decided that he has the dismissing power. No Senator who has served very long in this body will underestimate the influence of that power. No Senator who has witnessed the subtle influence of the appointing power upon legislation will underestimate that power of the President.

Truly, as has been said, the President enjoys more power than any living sovereign. Shall we delegate now the most exceptional power, the most delicate power, the most precious power of the people, also to the President of the United States? Not this President. Let us dismiss that idea. Individuals and persons have nothing to do with this debate. But shall we turn over to the Executive, with all his tremendous powers, the additional power which enables him to levy duties as a practical proposition which the people of the United States are to pay? Mussolini was put to the inconvenience of seizing power, but we as a Congress are going like a bastinadoed elephant, bowing at the feet of the President and surrendering to him the power which the people repose in us.

Something is happening here, my friends, which the fathers of the Constitution never dreamed of. In studying and discussing the question of the division of power, the legislative, the executive, and the judicial, they surveyed the whole field of experience and the entire realm of thought as to what might happen. Hamilton and Madison were deeply interested in the subject. Madison said that the accumulation of all power, legislative, executive, and judicial, in the same hands may be pronounced as the very definition of tyranny. He further said in the same discussion that power is of an encroaching nature and ought to be restrained from passing the limits assigned to it. It was a subject in which they felt profoundly and they undertook to survey the conditions under which that power might be frittered away from one department to the other. But they never dreamed, nowhere discussed and nowhere contemplated that the Congress of the United States would voluntarily surrender its power. It never entered their minds that the people would elect a Congress which from time to time and year to year would voluntarily surrender its power—as one Member of the other body said, get rid of the details, get rid of our troubles, leave us a debating society.

My friends, I am not going to discuss to-day the legal question, although I do want to say a few words in regard to it. The flexible tariff provision is not a new subject with me. I have been opposing it ever since it has been proposed in the Congress. If I may be permitted to say so, I voted against the last tariff bill because, among other reasons, it was in that bill. I regarded it of such a grave nature that I have not yet felt that I could surrender my views in regard to it. I declared then that the law as passed in 1922 was unconstitutional. I know that the Supreme Court has decided that it is constitutional. I can not follow their reasoning though I must bow to the decision. Perhaps it is for us to accept the decree of the court and go forward. But even if we do that the question of policy would remain.

The Supreme Court decides these matters under different circumstances than those under which we enact laws. When a congressional enactment goes to the Supreme Court the court gives an immediate presumption in favor of the law. It gives every presumption in favor of the power of Congress to enact the law and it often determines such questions upon that presumption. But I wonder what the members of the Supreme Court would do as members of this body if each and every one of them were sitting here and called upon to delegate that power where they were free to exercise their judgment relieved from

the presumption that Congress acts within its authority and relieved from the presumption that Congress intended to delegate power which it had the power to delegate.

I thought, when I read the President's interview, what would President Hoover do if he were a Senator here from some State sitting upon the question? Does anyone think, judging his history and judging his character by his history, that he would give up any power he possessed if the Senate of the United States attempted to delegate it away?

We are sitting here determining a policy notwithstanding the decisions of the Supreme Court. Let us review these decisions briefly because I must not detain the Senate more than a few moments longer.

The case to which we go back and to which all decisions go back when they seek to find authority for this kind of delegation of power is the famous case of the brig *Aurora*, decided, I think, in 1809. At least it involves the law known as the nonintercourse law enacted under President Jefferson. That law forbade the importation of goods from Great Britain and France.

The law provided, however, that in case either France or Great Britain should revoke their decree, revoke their pronouncement with reference to neutrality, then upon the instance of that revocation the President would so declare and trade be resumed. The law itself provided that upon the promulgation of that fact the law should operate so and so, and that the two countries should be permitted to trade.

That is the decision to which we go back when we are seeking for the beginning of authority for this delegation of power. But, Mr. President, that was a complete law in itself. There was nothing for the President to determine except a specific fact, to wit, that either of the Governments had revoked their decree. That rule has never been doubted. That is the rule in all the State courts. The test is this: If the facts may be definitely stated and accurately ascertained, then the power may be delegated to do the particular thing based upon those facts.

Then came the case of Field against Clark, so far as this particular question is concerned. The law, enacted under President McKinley, provided that certain products should come into this country free—molasses, hides, and some other things. But the law provided that in case those countries from which those goods were coming should enact a law imposing duties upon our agricultural products, then, upon the ascertainment of that fact and the President of the United States pronouncing it, certain duties provided in the law—not made by the President, not determined by the President, but specifically provided in the law—should go into effect.

That law was complete within itself. The duties were specified. There was nothing left except the fact as to whether or not a duty had been imposed such as the President believed constituted want of reciprocity.

In that case there was a division of the court. Justice Lamar and Chief Justice Fuller dissented, and while, of course, the decision of the court as a decision established the law of that case, I can not read the dissenting opinion without coming to conclusion that the sounder law and certainly the wiser policy were stated by the dissenting justices.

Then, Mr. President, came the case of Hampton against The United States, decided in Two hundred and seventy-sixth United States Reports. The court passed upon the law of 1922 and held that law constitutional. Here we come to the first instance in which the court jumped clearly from the ascertainment of a fact, where the power was not given to levy duties, over to the proposition of the ascertainment of a fact and the finding and levying of duties, the establishing of duties. The law was incomplete because it was necessary for the President to establish the duties and proclaim them before the law became complete. With all due respect to the Supreme Court of the United States, that decision was a great surprise, I will say, to me. But if it establishes the law in that case it only enjoins upon us more definitely the proposition of guarding our rights here as a lawmaking body.

The policy is for us to establish. I ask in all sincerity, and I ask my able friend from Pennsylvania [Mr. REED], if that is the law, if the Congress may delegate to the President upon ascertaining the difference between the cost of production at home and abroad, the power, according to his judgment, to declare what the duties shall be, and thereby piece out the law to make it complete, where are we going to stop?

If we transfer to the Executive the power we here propose to transfer, when and where shall we halt in our mad and reckless generosity? If we set the pace, what Congress may we hope will have the integrity of purpose, the courage, and the patriotism, to stay the craven surrender of power now going on and to put an end to this chronic renunciation of the obligations given to and imposed upon us by the Constitution? Precedents established by timid or indifferent men will be cited by sincere and conscientious legislators upon the assumption that they were honestly established. If we are justified either by the Constitution or expediency in giving the Executive this authority to deal with customs revenue, is there any convincing argument to be adduced against granting equal authority over income taxes and all other taxes. Why should we surrender the powers which so clearly belong to the lawmaking department? What a shirking, apologetic admission upon the part of Congress that it is unworthy of the trust. What a shameless confession upon our part that representative government is a failure. No more unworthy public servant slimes his way through the corridors of the government than the public servant who evades or barters away solemnly imposed obligations. There is something to be said for the public servant who weighs well his public duty and fails. There is something to be said for the man who dishonors his place of honor but leaves it all intact for a competent and faithful successor. But there is no plea to be made for the man who goes out and seeks from the people these places of honor and trust, of obligations and power, and then surrenders them over to another. This is an act for which there is no defense to be found.

The argument is made that this transfer of power is born of necessity, that the construction of the Constitution permitting this transfer arises out of the inherent necessity of the situation. This doctrine of necessity has even found its way into the decisions of the courts. Necessity, as has often been said, knows no law, regards no constitution. When I hear men appeal to necessity in justification of their acts, I am bound to conclude that they thus admit they can not find any justification for their course within the terms of the Constitution. If the Constitution, or any reasonable rule of construction, would authorize this delegation of power, there would be no occasion to invoke the doctrine of necessity. That is an argument that is made solely and alone in the absence of constitutional authority. This word "necessity" has an ancient and unsavory reputation. It is closely associated with arbitrary government. It smacks of personal power. It has always been the plea of the lawless. It has no place in constitutional government. There may be reasonable and just grounds for changing and rewriting the Constitution. If so, let that appeal be made to those alone who are authorized to change it. But so long as the Constitution stands, the plea of necessity can never be heard without disregarding every principle upon which our form of government rests.

Mr. President, there have been two books lately written, which are very interesting books, and I think very great books. One was written by Lloyd Paul Stryker, a lawyer of New York, which is entitled "The Life of Andrew Johnson." The other was written by that brilliant young writer, Claude G. Bowers, and is entitled "The Tragic Era." Both books cover practically the same period in American history, the most regrettable and unfortunate period in our entire history—that is, the reconstruction period. The Constitution was tested even beyond the test of civil war. Acting under passions born of the recent struggle, guided by a spirit of revenge rather than a spirit of justice, strong men searched the Constitution for power, for authority to do those things which the wise framers of that instrument never intended should be done. The authority could not be found. Baffled and discouraged in their search for authority to justify their acts and deeds and wholly unable to find it, they raised the old cry of necessity. The necessity of the situation! Under this plea they proceeded to put this Constitution to the severest strain yet recorded in our history.

The student of that period rises from his survey of those events with a deep-seated distrust of all constitutional plans and all constitutional arguments which must be supported and propped by the plea of necessity. Once the plea is admitted, where is the limitation of power? Once the plea is accepted, and who will be bound by the authority thus invoked? Once the plea is admitted, and there is no constitution except the will and purpose of those who happen to be in power at that particular period.

But if those acting under the fierce feeling of internecine strife are not to be pardoned—and in my judgment they are not—what will be said of those who raise the plea, the fierce, demoralizing plea, in times of peace, in times which admit of reflection and considered judgment? Let us conserve and preserve the principles of the Constitution faithfully and religiously until the people remake that Constitution. There is no excuse to be given for any other course. Such excuses as may be conjured up do credit neither to our integrity of mind nor our sincerity of purpose.

Necessity has no proper place in our vocabulary when we are exercising the constitutional powers of this Government. We

must either find the authority in the Constitution or we must halt and go back to the people and ask the people if they themselves want to delegate that power. Upon no other principle can a republican government long endure.

Mr. REED. Mr. President, I mean to speak on the flexible tariff provision somewhat more at length at another time, but one or two statements have been made by my friend from Idaho which I think call for prompt reply.

Mr. President, the battle between the Executive and the Congress has gone on since the Constitution went into effect. It will go on so long as that Constitution shall last. It is to the best interest of the United States that it should go on; it is to the best interest of the United States that that battle should never cease. When it shall cease it can only be because of the impotency of the President or of the Congress, and either condition would be a misfortune beyond parallel. I hope that battle always will continue. The President's power grows and ours grows with the growth of the country and the growing complexity of the country's affairs. His power grows because a great mass of new questions come up upon which the Executive must act, and ours grows for the same reason. Our relative powers ebb and flow and always will; only I hope they will never ebb very far in either direction. That is the foundation, perhaps, of the Senator's argument against the flexible tariff provision.

But the Senator begins with a remarkable criticism of the President. I think he said he did not criticize the issuance of the President's statement on the flexible tariff provision, but then he proceeded with a discussion of the statement, which to my ears sounded very much like a caustic criticism, as if the President were invading our field by issuing that statement and giving advice. In the definition of the President's duties in the Constitution we find the statement that—

> He shall from time to time give to the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient.

It is the plain meaning of that language in the Constitution that it is for the President's judgment to settle the time and the subject of his recommendations. It is the plain meaning of his statement that he does recommend to our consideration this provision for a flexible tariff.

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

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Utah?

Mr. REED. I yield.

Mr. KING. I apologize for intruding, but the Senator certainly does not feel, does he, that the President was exercising the prerogative which was given him by the Constitution when he gave to the Washington Post and other newspapers of the United States a statement? If he wanted to send a message to Congress, why did he not send it to Congress?

Mr. REED. It is a matter of indifference, it seems to me. His word reached Congress and reached the public whichever method he picked, and I am not inclined to be finical about the method which he chose.

One statement was made by the Senator from Idaho which I want at this earliest opportunity to contradict, at least for myself, and I believe for a majority of my colleagues. The Senator says that this is a fight between agriculture and industry. I decline to admit that. In so far as I am privileged to speak for the great industrial communities of the East, I decline to engage in that fight. I say that the communities for which I am trying to speak are not conscious of such a fight and are not waging any such fight. As I tried to say the other day, we are doing our level best to think of all Americans as equals, whether they be farmers in Idaho or factory workers in New England. On no other principle can the Congress legislate. So I was amazed to hear the Senator from Idaho appeal to his brethren from the Western States to stand against this flexible-tariff provision and retain the power here in the Senate, where the representation is disproportionate to population, and not let that power go where the Western States, because of their disproportionate representation, could no longer control the situation.

What can that mean, Mr. President, except that the Senator from Idaho is afraid of the facts; that he is afraid to let the facts be judged by an impartial tribunal organized like a court, expressly taken out of the field of politics, with the parties equally balanced in representation upon that commission? The Senator says no, the facts on which the industries, agriculture, and the mines of America depend for their life must not be judged by an impartial tribunal, but must be judged here, where Idaho with 430,000 people has two Senators and New York with eleven or twelve million people has but two, where some Americans have twenty or thirty times the representation of other Americans. He can not let his facts go to that tribunal, that nonpartisan, judicial, deliberative tribunal; but he must have them decided here where representation is all lopsided between the States of different size.

I know perfectly well that it is no use to rail against that condition. We all know we would have had no Federal Constitution had it not been for the great compromise which gave all the States equality of representation in the Senate. There is no use kicking against that. It is as permanent as anything can be in our system of government, and the Constitution protects it alone from being changed by amendment. I do not complain of it, because it is useless to do so; but surely there is something wrong with a case that can only be submitted to a tribunal constituted as is the United States Senate. There must be something wrong about a case that dare not submit its facts to judicial decision.

The trouble with this attack on the flexible tariff and with this attack on the whole bill—this is only the part of a general campaign against the bill—is that these gentlemen who have appointed themselves spokesmen for agriculture—and I deny their right to do it—are trying to drag down the rest of the country so as to put the whole country on a level. We are trying to lift up agriculture to the higher level on which most of the industry of the country is. That is the difference. We are both seeking equality. They are trying to do it by pulling down the East. We are trying to do it by lifting up the West.

As a spokesman for agriculture I am distinctly disqualified by reason of my own ignorance, but at least in disposition I claim that my attempts to help the farmer are as sincere as those of our adversaries. In Pennsylvania in 1927 we produced $249,000,000 worth of agricultural products. The State of Idaho produced $108,000,000 worth. Surely, I am as much entitled to be considered a friend of agriculture as is the eloquent Senator who preceded me. I can not speak for agriculture with the same tongue of eloquence that he has, but I have just as much sincerity in the words I use and the heart that prompts them.

Mr. McMASTER. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from South Dakota?

Mr. REED. I yield.

Mr. McMASTER. I may suggest to the Senator from Pennsylvania, in regard to his interest in agriculture, that Mr. Grundy in his famous publication stated that 80 per cent of the wealth of Pennsylvania is due to the industrial interests and 20 per cent is due to agriculture, and on that account he rather sharply criticized the President for even suggesting that this should be an agricultural bill, because manifestly, as far as Pennsylvania is concerned, it ought to be an industrial bill, since 80 per cent of their interests center in industrial products.

Mr. REED. I never saw that statement. I do not know whether Mr. Grundy made it or not; but if he did make it, he is wrong. That is my position.

Mr. President, something has been said about the unwisdom of this provision from the standpoint of the farmer. Can the Senate forget that out of the 28 increases which have been made by the President on the recommendation of the Tariff Commission 11 were increases of duty on agricultural products? Is that any sign of industrial domination in the Tariff Commission when 11 out of 28 of the increases made by the President on their reports have gone to this one industry of agriculture? Does not that indicate that these representatives of the industrial East against whom the Senator inveighs so strongly have a strong inclination to be as fair to the farmer as to other Americans, the same inclination to protect him against foreign competition that they have to protect other Americans?

Does not the record of the Tariff Commission in the past seven years conclusively disprove the implication that power has to be retained here in the Senate, and can not be intrusted to the Tariff Commission and to the President?

Mr. COUZENS. Mr. President, will the Senator yield for a moment?

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Michigan?

Mr. REED. I yield.

Mr. COUZENS. Would the Senator be willing to accept the suggestion of the Senator from Idaho that we leave the industrial schedules to the Tariff Commission, and thereby express our confidence in it?

Mr. REED. Of course not; and the reason why not is obvious. Take some of the matters which the Tariff Commission have handled that were matters of acute distress in different parts of this country: They necessarily had to spend many months and years in their investigations, in their solicitude to

get the exact facts; and while they were spending those months in necessary investigations men were starving, out of jobs, and right past their factories were coming products that were made abroad at costs so low that it was impossible to turn a wheel in similar factories here. That is a desperate state of affairs; and not only did they spend time in necessary investigations, but they spent time in wholly unnecessary wrangling among themselves, for which they ought to have been very much ashamed; and while they wrangled unnecessarily, some industries lay prostrate.

That is why I do not accept the Senator's suggestion. Here we have the bill before us. We know, if we are willing to face the facts, that there are industries that are hopelessly depressed, far worse than agriculture. Take tanning, for instance—the tanning of leather. Seventy-one tanneries have gone out of business in the last 18 months. A larger proportion of people engaged in that industry have been ruined in the last 18 months than those engaged in agriculture have been ruined since the World War.

Mr. FRAZIER. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from North Dakota?

Mr. REED. I yield.

Mr. FRAZIER. In talking to a man who represented or claimed to represent some of the leather interests, he stated to me that he thought the change in the number of tanneries was due to consolidations rather than to going out of business. It was because larger plants had perhaps put them out of business in that way, or taken them over—something of that kind.

Mr. REED. No, Mr. President; our domestic production has declined, our exports to other countries have declined, and the imports from other countries of tanned leather have mounted amazingly. You have only to look at the figures to get the story. Those tanneries which have closed up have closed up because foreign tanneries were running to supply the customers that they used to supply in this country.

Mr. BARKLEY. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Kentucky?

Mr. REED. I yield.

Mr. BARKLEY. Reverting to the Senator's criticism of the wrangling in the Tariff Commission——

Mr. REED. I am going to speak more about that later.

Mr. BARKLEY. Is it not true that a considerable portion of that wrangling grew out of the effort of Mr. Marvin and those who sympathized with him to assess against commerce transportation charges that never actually occurred in order to weigh them against transportation charges of imports into this country? And, if that is true, does the Senator think that those who oppose the assessment of that fictitious transportation ought to have withdrawn their opposition in order not to have wrangled?

Mr. REED. It grew out of a very large number of disagreements. It arose primarily because the persons appointed on the commission were in some instances, in my judgment, conspicuously unfit to hold office. I am not taking sides; I do not want to name personalities; but there were some men there representing the so-called liberal thought, some representing the so-called conservative thought, and I thought they were both of them unfit and ought never to have been named. The fault did not lie altogether on one side. They wasted time that was precious to American industry in wrangling over subtleties that had no place at all in the discussion. They kept books on one another. They maneuvered in a way that would make a Senator seem like an amateur in the effort to get one another in wrong. It was a disgraceful record; but fortunately it is very much better now, and the operation of the Tariff Commission to-day is immensely better than it was five years ago.

Now, I want to say a word about the Senator's argument on the constitutionality of the Smoot amendment.

I do not for one moment urge the adoption of the flexible tariff on the ground of necessity. In my judgment it is not necessary to do it. If Congress is willing to sit long months it can do the same work. I urge it because it seems to me to be common sense and wise to do it, and I have no doubt whatsoever of its constitutionality.

This is not a delegation of power to the Tariff Commission. It is a delegation of a duty of investigation to the Tariff Commission, just as we delegate to a dozen other commissions similar duties to ascertain facts. It is not a delegation of power to the President, but a direction to the President that when those facts exist he shall act thus and so; which is, after all, the nature of every law that we pass that pertains to the action of the Executive. When such and such facts exist, this action shall follow as a consequence.

In 1922 the argument was strongly pressed that the flexible tariff was an unconstitutional delegation of the legislative power, and able arguments were made on both sides of that proposal, one of them by the eloquent Senator from Idaho [Mr. BORAH]. It looked like a close question; but to us who sit here now it can not look like a close question to-day, because the precise subject has been passed upon by the Supreme Court, and the constitutionality of the flexible tariff sustained.

It is unnecessary for me to cite from that decision at length; but in view of the argument of the Senator from Idaho to the effect that those justices were resolving every doubt in favor of our legislation, and were not expressing any opinion about the wisdom of it, and if they had been Senators would probably have voted to the contrary, I think it is interesting to read a couple of sentences from the opinion in the Hampton case, which was handed down last year.

Naturally the analogy of the delegation of authority to the Interstate Commerce Commission came to their minds; and this is what they said of that:

> One of the great functions conferred on Congress by the Federal Constitution is the regulation of interstate commerce and rates to be exacted by interstate carriers for the passenger and merchandise traffic. The rates to be fixed are myriad. If Congress were to be required to fix every rate, it would be impossible to exercise the power at all.
>
> Therefore, common sense requires—

Note those words—

> Common sense requires that in the fixing of such rates, Congress may provide a commission, as it does, called the Interstate Commerce Commission, to fix those rates, after hearing evidence and argument concerning them from interested parties, all in accord with a general rule that Congress first lays down that rates shall be just and reasonable considering the service given and not discriminatory.

Then, turning to the statute which established the flexible tariff——

Mr. BARKLEY. Mr. President, will the Senator yield there?

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

Mr. REED. I yield to the Senator.

Mr. BARKLEY. In the matter of the Interstate Commerce Commission, Congress made the commission solely an agency of Congress. The Executive plays no part whatever; and in one true sense of the word the commission does not fix rates. It exercises a veto upon rates initiated by the carriers; so that there is hardly an analogy, even in spite of the reference to it by the distinguished Chief Justice, between the power conferred on the Interstate Commerce Commission to veto rates initiated by carriers and a power granted to the President to fix rates of taxation. Does not the Senator recognize that difference?

Mr. REED. I do not see the slightest difference in law. Each is the delegation of a power to act upon a well-defined rule that is clearly stated by Congress.

Mr. BARKLEY. One, though, is the creation of a commission which is the sole agency of Congress to do a certain thing, and not to cooperate with the Executive, because in fixing railroad rates the President plays no part whatever.

Mr. REED. That is quite true. In one case the act fixing the rate comes from the commission, in the other case from the President; yes.

The Supreme Court, speaking of the second one, the flexible tariff, says:

> The same principle that permits Congress to exercise its rate-making power in interstate commerce by declaring the rule which shall prevail in the legislative fixing of rates, and enables it to remit to a rate-making body created in accordance with its provisions the fixing of such rates, justifies a similar provision for the fixing of customs duties on imported merchandise.

The same principle, the court says, justifies a similar provision for the fixing of customs duties. The court continues:

> If Congress shall lay down by legislative act an intelligible principle to which the person or body authorized to fix such rates is directed to conform, such legislative action is not a forbidden delegation of legislative power. If it is thought wise to vary the customs duties according to changing conditions of production at home and abroad, it may authorize the Chief Executive to carry out this purpose, with the advisory assistance of a Tariff Commission appointed under congressional authority.

I am as anxious as any of us can be to see the Congress retain its independence and its power. In the long run that is the bulwark of liberty. I am as anxious as any Senator to see us keep in our hands all necessary legislative power, and not

allow it to crumble away by successive executive encroachments.

I venture to say, Mr. President, that the tendency to surrender power is not as great now as it was a hundred years ago. In the earliest tariff acts we passed, there were some amazing delegations of power to the President. The last one I remember was that one in the tariff act of 1890, which was passed on by the Supreme Court in the case of Fields against Clark, and even if I seem to be covering the ground again, I want to refer to that case. I did not gather from the Senator from Idaho quite the extent to which that act had gone.

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

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield to the Senator from Kentucky?

Mr. BARKLEY. I do not like to interrupt the Senator, but I am interested in his line of thought.

Mr. REED. I am glad to yield.

Mr. BARKLEY. The same provision of the Constitution which authorizes Congress to levy taxes, of course, includes the power to levy all sorts of taxes we can levy. Does the Senator believe that, following the rule laid down in the Supreme Court decision, we have the authority to confer upon the President the power to shift items from the free list to the dutiable list, and from the dutiable list to the free list, so as to determine whether the articles shall be taxed at all?

Mr. REED. I believe we could do so if we gave him some rule upon which to act. I would be sorry to see us do it, because it is more power than I would want to put into the hands of the President.

Mr. BARKLEY. If we have the authority to delegate that power to the President with reference to duties on imports, have we not the same power to delegate to him the power to shift the brackets in income taxes, or to determine whether there shall be any income tax at all upon a certain industry as compared with some other industry, subject, of course, to the provision of the Constitution that all taxes shall be uniform? If we have the power to delegate to him the right to shift from the dutiable list to the free list items of imports, and vice versa, does not the same constitutional provision authorize us to turn over to him altogether the right to say what income taxes shall be paid by corporations or individuals, and therefore could we not confer upon the Internal Revenue Bureau the power to levy income taxes and all other internal-revenue taxes, as well as to confer on the Tariff Commission the power to fix tariff duties?

Mr. REED. Not unless we establish for the guidance of the Executive a clear rule of action which shall control what he does in levying taxes, and substantially that, in fact, is what we have done in the income tax law, because we have laid down a rule of action, and it is up to the Internal Revenue Bureau to apply it.

Mr. BARKLEY. Suppose Congress, in undertaking to lay down a rule of action, should say to the President, "We desire to raise $500,000,000 per annum from internal revenue." Would that be the laying down of a rule under which he could fix the rates of taxes?

Mr. REED. Obviously not.

Mr. BARKLEY. What sort of rule could we lay down that would govern him in the assessment of income taxes, and his power to determine them?

Mr. REED. Are we not going rather far afield? I do not know that it would help any for me to suggest ways of delegating power to change the income tax law.

Mr. BARKLEY. The constitutional provision which gives us the power to levy taxes is very limited, it is in only a few words, but it does not limit us to any particular kind of taxes, and if we can delegate to the President the power to levy taxes on one thing, why can we not delegate the whole power to levy taxes on all things?

Mr. REED. Mr. President, I think I have answered the Senator's question, and if I have not, I think the case I am about to read will answer it.

Mr. BARKLEY. I must confess that the Senator has not answered it to my satisfaction.

Mr. REED. Very well; then perhaps this will answer it.

The statute which was considered in the case of Field against Clark was the tariff act of October 1, 1890. That contained a provision which I, as only a moderately good lawyer, would unhesitatingly have said was unconstitutional. It was the provision—

> That with a view to secure reciprocal trade with countries producing the following articles, and for this purpose, on and after the 1st day of January, 1892, whenever, and so often as the President shall be satisfied that the Government of any country producing and exporting sugar, molasses, coffee, tea, and hides, raw and uncured, or any of such articles, imposes duties or other extractions upon the agricultural or other products of the United States—

Now mark this:

> Which in view of the free introduction of such sugar, molasses, coffee, tea, and hides into the United States he—

The President—

> may deem to be reciprocally unequal and unreasonable, he shall have the power and it shall be his duty to suspend, by proclamation to that effect, the provisions of this act relating to the free introduction of such sugar, molasses, coffee, tea, and hides.

See what that act did. If the President thought that the tariff law of a foreign country as to some agricultural products, not specified, was unreasonable, according to a rule of reason not even suggested, then the President, on that state of facts, might take those articles from the free list and make them dutiable. That, I think, answers the Senator's question.

The Supreme Court of the United States held that that section was constitutional. Whether it was constitutional or not—and, of course, in view of that decision, we have to submit and agree that it was, although the minority of the court did not submit without protest—it was clearly unwise. I do not think that any of us would urge that we delegate power so far as was done in that act.

The flexible tariff provision under consideration does not go nearly that far. It does not authorize the imposition of a duty on an article now duty free. It merely authorizes the correction up or down, according a very well defined and clearly stated rule, of comparing the costs of production.

There can not be any question of its constitutionality. I do not see very much question of its wisdom, although I take it that our adversaries disagree as to that.

Things change so fast. The industry that was here in 1922 is entirely transfigured and gone to-day. A good example of that is the case of wood alcohol. Wood alcohol is now called methanol, which is more impressive, but it means the same old thing; it is wood alcohol.

When we passed the act of 1922 wood alcohol was made out of wood in small establishments located around through the forest regions. We had a number of them up through our northern counties in Pennsylvania working on waste wood products. Between 1922 and the present time that industry has disappeared as completely as possible. Practically no use remains for wood alcohol made of wood, except the denaturing of industrial alcohol. Meantime, in Germany has sprung up a method of making it out of coal tar and coal gases. It is exactly the same product chemically, I understand; it fills the same uses the old wood alcohol filled, and the facts on which the Congress acted in 1922 in fixing the rate on wood alcohol are just as inapplicable to-day as they were in the days of Julius Cæsar.

If we had not had a Tariff Commission, nothing could have been done about that matter. We can not have a new tariff bill just because the wood-alcohol industry has changed, and yet, with the Tariff Commission there, an easy remedy was afforded. After the customary delay, both necessary delay and unnecessary delay, the Tariff Commission made its recommendation, and the President acted. There was a perfectly proper case.

Why should we not have that safeguard for the next seven years, or for the interval that will elapse before we have another revision of the tariff? It may be seven or eight years.

Mr. President, I did not mean to speak even as long as I have spoken, but at a later time I would like to speak more at length on what seems to me to be the wisdom of the idea that underlies this Smoot amendment.

Mr. BORAH. Mr. President, since my friend the Senator from Pennsylvania [Mr. REED] doubts my authority to speak for the agricultural interests, I shall ask to have inserted in the RECORD a letter I have just received from the National Grange regarding the tariff bill.

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

THE NATIONAL GRANGE,
Washington, D. C., September 25, 1929.

DEAR SENATOR: A careful study of the tariff bill as reported to the Senate by the Finance Committee convinces us that notwithstanding an upward revision of rates on various agricultural commodities, the relative disadvantage of agriculture as compared with industry is fully as great under the pending bill as under the present law.

According to the Statistical Abstract of the United States for the year 1928, compiled by the Department of Commerce, the average ad valorem duty on agricultural products and provisions, as classified by the tariff act, during the preceding year was 22.54 per cent, while the average ad valorem duty on all the other dutiable schedules was 42.6 per cent.

Since the rates on industrial and manufactured products in the present bill have been raised more on the average than the rates on agricultural commodities, it is manifest that the tariff bill, if enacted in its present form, will utterly fail to fulfill one of the primary purposes for which Congress was called in special session.

For example, while hides, shoes, and leather are on the free list under the present law, the proposal is to place a protective duty of 10 per cent on hides; but this is followed with a compensatory duty of 20 per cent on shoes and leather, suitable for conversion into footwear. The unwarranted disproportion between these proposed duties would place a heavy burden upon the average farm family, together with the consuming public as a whole.

Agriculture has a vital interest in the proper solution of the tariff problems presented by the Philippine Islands. It is clear that free trade with the islands is injurious to the farmers of the United States. This applies particularly to copra, coconut oil, and sugar. Since vegetable oils are interchangeable, to permit coconut oil to come in free from the Philippines in effect puts all our domestically produced vegetable oils on the free list. It is also impossible to give proper protection to the domestic producers of sugar cane and beets if we allow the Philippines to ship unlimited quantities of sugar to us free of duty. The late Governor General Leonard Wood gave as his opinion that the islands are capable of producing 5,000,000 tons of sugar annually, which is almost equal to our domestic consumption. Unless imports from the Philippine Islands are made dutiable under some system of segregating the revenues thus derived and turning them into the treasury of the islands, the only way of relieving agriculture from destructive competition from that quarter would be to grant independence to the islands.

While the grange desires that adequate protection shall be given to those branches of our agriculture which can be brought under the protective system, we are not unmindful of the fact that the farmer as a consumer has an equal interest in seeing that tariff rates on commodities which he must buy are maintained at fair and reasonable levels. There is a difference between tariff rates that will insure proper protection to American industry and labor and rates that breed monopoly and burden the consumer for the benefit of industries which, on the whole, are now enjoying great prosperity. The value of the securities of many of these industries has increased from two to six fold during the past seven years.

We are also impressed by the fact that a large proportion of the acreage of American farms can not be brought under the protective system, for the reason that the crops produced on these lands fall into the surplus class and must be sold on the world's markets at the world's price. It follows, therefore, that the higher we make the tariff on general commodities, the less chance there is for the economic survival of unprotected farmers. The farmer who is compelled to sell his crops in the open markets of the world is working under a tremendous handicap when he is obliged by the action of the Government to buy his supplies in our highly protected market. No system of marketing and money lending can overcome this handicap.

Since farmers, in common with the rest of our population, are compelled to pay their full share of tariff costs, and since the growers of our surplus crops can not be given protection by the tariff, the grange advocates the export debenture plan as a means of giving equalized tariff benefits to these farmers.

Sincerely yours,

FRED BRENCKMAN,
Washington Representative.

Mr. BORAH. Mr. President, rather to complete the record than to enter into any further controversy, I want to call attention to the provisions of the law which was passed upon in the case of Field against Clark. From my viewpoint as a lawyer, it is as different from the present law as could well be, if we were testing it on the question of the delegation of power. That law provided, first, that certain products should come into this country free of duty. Then it provided that in case the countries from which those products came levied a duty which, you might say, infringed reciprocity, upon the ascertainment of the fact and its proclamation, the law then provided the duties which should be applied. The President was given no power to fix the duty. The bill itself fixed the duty. There was only one thing for the President to determine, and that was the question whether those countries from which the products were coming were levying duties upon our agricultural products.

Mr. REED. Mr. President, will the Senator permit me to interrupt?

Mr. BORAH. Certainly.

Mr. REED. The test provided was the President's judgment as to the unreasonableness of the law of the foreign country. The Senator is quite right that if that occurred, if the President thought it was unreasonable, then the particular rates provided went on.

Mr. BORAH. Yes; if the President thought the laws were such as to destroy reciprocity. That was a simple fact which he was authorized to ascertain.

Mr. REED. The Senator does not consider it a very simple fact, does he?

Mr. BORAH. I consider it a very simple fact compared with the question of going into the problem of whether or not duties are competitive, and the Congress did not permit the President to decide that question, but after he ascertained that fact, to say what duties would meet the antireciprocity, but the Congress itself fixed the duties in the bill and provided that upon the declaration of the President being made, then the law should operate upon that proposition. I think, of course, that the law did go to the full limit. In fact, I find more comfort in the dissenting opinions. I agree with the Senator on that point. My opinion would have been that it was unconstitutional. But it is far from going to the extent of authorizing the President to ascertain the fact and to determine for himself what the duty should be, and therefore to complete and finish the bill. The law was complete within itself.

Mr. FLETCHER. Mr. President, I listened with very great interest, and, I hope, with some inspiration and profit, to the very able and eloquent address of the Senator from Idaho [Mr. BORAH] this morning. If we accept his premises that the flexible tariff provision is an infringement of the constitutional powers vested in the Congress, upon which a large portion of his address was based, there is no escape from his conclusion. But I can not see why we should take up a great deal of time discussing the legal question or the constitutional question with reference to the amendment offered by the Senator from Utah [Mr. SMOOT] which adopts the flexible tariff provision precisely as it stands in the existing law. That question has been settled definitely—clearly and absolutely settled. It is the supreme law of the land. The pronouncement of the Supreme Court of the United States, without any dissenting opinion, has settled that question, so why should we indulge in a lot of theories about it or discuss the soundness of it? In the decision made in the case of Hampton against United States, in Two hundred and seventy-sixth United States Reports, page 394, which I hold in my hand, the very identical questions which have been discussed here were finally and definitely determined.

Mr. McKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Florida yield to the Senator from Tennessee?

Mr. FLETCHER. I yield.

Mr. McKELLAR. Even though that is true, there is no reason in the world and there is no inhibition in that decision that we should not repeal the law which was enacted in 1922.

Mr. FLETCHER. No; I quite agree with the suggestion of the Senator from Tennessee. We can get away from that policy entirely and change that law. But I am speaking now with reference to the validity of it which has been challenged, as I understand, by the Senator from Idaho disagreeing apparently with the opinion of the Supreme Court.

In that case the court said, the opinion having been written by Chief Justice Taft:

> The issue here is as to the constitutionality of section 315, upon which depends the authority for the proclamation of the President and for 2 of the 6 cents per pound duty collected from the petitioner. The contention of the taxpayers is twofold: First, they argue that the section is invalid in that it is a delegation to the President of the legislative power, which, by Article 1, section 1, of the Constitution, is vested in Congress, the power being that declared in section 8 of Article 1, that the Congress shall have power to lay and collect taxes, duties, imports, and excises.

That was the identical question raised in that decision and about which we have had a very long argument and discussion this morning—

> Their second objection—

Which is not involved here—

> is that, as section 315 was enacted with the avowed intent and for the purpose of protecting the industries of the United States, it is invalid because the Constitution gives power to lay such taxes only for revenue.

The court passed upon both those propositions and said, at page 410:

> Then followed certain rates of duty to be imposed. It was contended that this section delegated to the President both legislative and treaty-making powers and was unconstitutional. After an examination of all the authorities, the court said that while Congress could not delegate legislative power to the President, this act did not in any real sense invest the President with the power of legislation, because nothing involving the expediency or just operation of such legislation was left to the determination of the President; that the legislative power was exercised when Congress declared that the suspension should take effect upon a named contingency. What the President was required to do

was merely in execution of the act of Congress. It was not the making of law. He was the mere agent of the lawmaking department to ascertain and to declare the event upon which its expressed will was to take effect.

That covers the whole ground of the argument submitted this morning. Other arguments have been made with reference to the same question. The identical provision which is now before the Senate was involved in that case, as I have pointed out. That portion of the opinion of the court with reference to the other point there involved is not material here. I am going to read just the concluding portion of the opinion:

And so here the fact that Congress declares that one of its motives in fixing the rates of duty is so to fix them that they shall encourage the industries of this country in the competition with producers in other countries in the sale of goods in this country, can not invalidate a revenue act so framed. Section 315 and its provisions are within the power of Congress. The judgment of the Court of Customs Appeals is affirmed.

There was no dissenting opinion at all. It was the unanimous opinion of the court laid down by the Chief Justice of the Supreme Court of the United States which disposes of the very foundation of the arguments and discussions we have had here to-day.

Mr. President, I quite agree with the Senator from Idaho in all he said respecting the harmful, serious, injurious consequences arising out of appeal to the law of necessity. That has nothing to do with the proposition before us; there is no claim of necessity set up here or in the opinion of the Supreme Court. I agree with the Senator fully in the references he made to those great books which he mentioned and particularly The Tragic Era, by Mr. Bowers. That is a discussion of a part of the history of our country which should be preserved and will be preserved. At that time appeal was made, as the Senator said, to the law of necessity. The assumption was set up by that most contemptible character in all our history, I think, Thaddeus Stevens, and by some of his associates, Sumner, Wade, Stanton, Ben Butler, and a few others of the radical group, that the powers of war should govern. They insisted that the rule of war should be applied when they imposed the most unspeakable injustices, violent cruelties, and misrule upon 11 of the States of the Union, in the South. They invoked the rule of war after the war was all over and peace had been declared. They asserted the country was still at war and they invoked that rule to impose their misrule and outrageous treatment upon the southern people.

No such question is involved here. There is no law invoked outside of the Constitution. There is no necessity and there is no rule of any other kind except the rule laid down in the Constitution and sustained by the Supreme Court in respect to the very legislation which we are now attempting to enact.

But, Mr. President, let us come down out of the skies. Let us leave the stars and come to practical dealing with actual existing conditions now in our province.

I want to look at this question from the practical, everyday, common-sense standpoint. In a perfectly plain and simple way I want to consider just what the actual working out of tariff legislation means, the processes through which we go, not only with reference to the pending bill but with reference to every tariff bill and with reference to every amendment that may be offered to the tariff bill hereafter.

It distresses me not to be able to go along with the very large majority of my Democratic colleagues respecting the flexible provisions of the tariff bill.

I have believed that a revision of the tariff was due.

I have thought that revision should be "limited" very much as outlined by the President. The primary consideration should be given to the needs of agriculture. I knew that an increase in duties on many agricultural products was demanded and justified and in many instance imperative. Otherwise some production would have to be abandoned; some undertakings in the production of food products could not survive.

It was plain, too, that certain readjustments should be made, in the public interest, called for by changed conditions and new development.

The principle of the difference in cost of production at home and abroad on the basis of just competition I believe is sound.

The majority party will be held responsible for the legislation. The minority should do their best to make the bill what it should be, even though they get no credit for their work.

Opposition to various items and provisions in the bill need not extend to defeating it by obstruction or dilatory tactics, even if that were possible.

Efforts should be directed toward improving the bill rather than defeating it, unless, indeed, we are convinced it would work more harm than good to the country.

The President's statement respecting the flexible provision appeals to me as convincing.

I refer to his statement without mentioning the points discussed in detail.

The main argument against the flexible provision, the Smoot amendment and section 336, is it places too much power in the hands of the President, allowing him, after study and report of the Tariff Commission, to raise duties 50 per cent. He can initiate no inquiry, he could not transfer to the dutiable list any articles Congress places on the free list, or vice versa.

It is contended the Tariff Commission should report to Congress and all changes should be made by Congress.

Let us see how tariff legislation is handled by Congress.

We have been nearly a year at work on the pending bill.

The legislation must originate in the House.

No proposal to amend the law could be successfully initiated in the Senate.

The Ways and Means Committee of the House must first take it up after it is proposed there.

That committee is composed of 15 Republicans and 10 Democrats.

The Republican majority writes the bill. Not only that, but a majority of that majority would control. That is to say, eight members of that committee would determine the fate of any proposal to amend the law. Not only that, but the Speaker of the House, the majority leader, and the chairman of the Committee on Rules would decide whether any report of that committee would be put to a vote.

Practically, therefore, three Members of the House would determine whether during the coming years, and until another general revision of the tariff is considered, there would be any increases or decreases made in the rates carried in the measure about to be enacted.

Would it improve matters to lodge that power with them, rather than the President?

The President represents the whole country—they represent the Republican Party. The President's responsibility is more extensive, more direct, and more comprehensive. They could be more justly charged with biased partisanship, with the influence of special interests and privilege than could the President.

To claim that the President can not be trusted with this power is to charge by indirection or implication a lack of proper conception of fiduciary responsibility.

I predict that if this flexible provision is defeated and goes out of the bill, even if the Tariff Commission is authorized to report to Congress, there will be no amendment of the tariff law before the next general revision.

It may be possible to pass some amendment for the benefit of some special interest or to pay political debts, or to pile up profits for particular beneficiaries at public expense, but even that is not likely.

Just note how this bill has been handled.

Anyone acquainted with the processes of tariff legislation ought to appreciate what a dismal, discouraging route the bill follows.

Extensive hearings are had before the Ways and Means Committee. Individuals who are concerned only with their own interest, big business and little business, bent on increasing their own profits, crowd the room and press their selfish causes. The taxpayer, the average man, the consumer, who has no favors to ask, remains at home, in prayer. Logrolling begins, trading is rampant. Finally a majority of the majority writes the bill, and it is reported to the House. With the consent of the Speaker, the majority leader, and the chairman of the Committee on Rules, it is laid before the House. No one is allowed to offer an amendment. No debate is permitted. The bill is passed as the majority of the committee or a majority of that majority submitted it. Four hundred and thirty-five Members express their views by a single vote. To be sure, the majority and the minority have the privilege of submitting in written reports their views on the bill. But there is no debate, no consideration, no amending proposal.

It comes here and is referred to the Finance Committee. Hearings are had similar in character to those had in the other body. The same logrolling and trading go on. Eleven Republicans write the bill. A majority of that majority decide what amendments or changes shall be offered to the House bill. Six Republican Senators here may agree to those changes. So you have 8 Republican Members of the House, out of 435 Members, and 6 Republican Members of the Senate, out of 96, writing the bill. Here, it is true, it can be discussed and amendments can be offered, and there is a chance to improve the bill; but suppose that is done. The House will disagree to the amendments and ask for a conference. That will be granted. Three to five Members of each body will be named conferees. Six to ten members from the Ways and Means and Finance

Committees—probably four Democrats and six Republicans—will discuss the proposed changes, reject by a majority vote of conferees from each body, or accept, such amendments as they choose, and report to their respective bodies. That report will be adopted. Three Members of the House and three Members of the Senate, selected by the majority of the majority in each body, will prepare the final draft, and that will be the measure enacted into law. That same course will be pursued as to any amendment that might be proposed to that law hereafter.

In my judgment, the country would be better served by trusting any change in rates carried in the law to the President, within the limitations mentioned, preserving the general power of fixing tariff duties in Congress.

The amendment offered by the Senator from Utah [Mr. SMOOT] very greatly improves the House provision and, in my judgment, should be adopted.

I regret exceedingly to be obliged to differ with my Democratic colleagues on the Finance Committee. It is quite certain, however, they will get a better hearing and greater consideration before the Tariff Commission and the President on any proposal to decrease or increase rates within the maximum of 50 per cent of the rates carried in this bill than has been accorded them by the majority of their own committee.

After all these months of study and labor we have now before us a bill which is seriously denounced as an "iniquitous" bill, a "monstrosity," an abomination. This is the work of Congress. Could the President do worse if he tried? I feel convinced that such injustices as the bill will carry and such changes as new conditions may warrant had better be corrected and made by the President, after investigation and report by the Tariff Commission, as the existing law provides.

Mr. WALSH of Montana obtained the floor.

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

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Tennessee?

Mr. WALSH of Montana. I yield.

Mr. McKELLAR. I suggest the absence of a quorum.

The VICE PRESIDENT. Does the Senator from Montana yield for that purpose?

Mr. WALSH of Montana. I do.

The VICE PRESIDENT. The absence of a quorum being suggested, the clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Frazier	Kean	Schall
Barkley	George	Kendrick	Sheppard
Bingham	Gillett	Keyes	Simmons
Black	Glass	King	Smith
Blaine	Glenn	La Follette	Smoot
Blease	Goff	McKellar	Steck
Borah	Goldsborough	McMaster	Steiwer
Bratton	Gould	McNary	Swanson
Brock	Greene	Metcalf	Thomas, Idaho
Brookhart	Hale	Moses	Thomas, Okla.
Broussard	Harris	Norris	Townsend
Capper	Harrison	Nye	Trammell
Caraway	Hastings	Oddie	Tydings
Connally	Hatfield	Overman	Vandenberg
Couzens	Hawes	Patterson	Walcott
Cutting	Hayden	Phipps	Walsh, Mass.
Deneen	Hebert	Pine	Walsh, Mont.
Dill	Heflin	Pittman	Warren
Edge	Howell	Ransdell	Waterman
Fess	Johnson	Reed	Watson
Fletcher	Jones	Sackett	Wheeler

The VICE PRESIDENT. Eighty-four Senators have answered to their names. A quorum is present. The Senator from Montana has the floor.

Mr. WALSH of Montana. Mr. President, I arise to submit some observations on the amendment now under consideration; but before doing so I desire to advert to some matters which engaged the attention of the Senate on yesterday.

History repeats itself. In the year 1897, when the Dingley bill was under consideration, one S. N. D. North, who for years theretofore, perhaps nearly 10 years, had been secretary of the National Wool Manufacturers' Association, became a secretary of the Finance Committee, or of the majority members of the Finance Committee, or of the subcommittee charged with preparing the wool schedule. While he was thus acting as secretary or an attaché of the committee, and enjoying the most intimate opportunity to know what was transpiring in the secret conclaves of that committee, or of the majority members, in relation to the tariff bill, he was in constant communication with one Whitman, who was the president of the National Wool Manufacturers' Association, who was at the time deeply interested in the wool schedule, had had many conferences in relation to it. He was constantly advised through the correspondence with North while he was thus acting of what was going on. Suggestions were made by Whitman and passed in that way to Mr. North for use in the work with which he was charged.

It developed afterwards that in consideration of the valuable services thus rendered by North to the National Wool Manufacturers' Association he was by that organization voted and paid a gratuity of $5,000; and later on, in consideration of the great public services that he rendered in that connection, he was recommended by leaders of the party then in power as Director of the Census, and was subsequently appointed to that position.

The essential facts in relation to the matter as well as the correspondence which passed thus between North and Whitman were revealed in the course of a lawsuit which took place, as my recollection now serves me, about the year 1908, immediately prior to the consideration of the Payne-Aldrich bill of 1909. The matter became the subject of much comment in the course of that discussion over that bill. At the same time the revelations evoked no little comment in the press throughout the country, generally of a most unfavorable character.

The employment by a member of the majority of the Finance Committee of the secretary or assistant to the president of the Manufacturers' Association of the State of Connecticut and his admission into the secret conclaves of the majority members of the Finance Committee while they were preparing the bill bears a striking resemblance to the instance to which I have referred; and I commend to the Senator from Connecticut [Mr. BINGHAM] a perusal of the letters that passed thus between Mr. North and Mr. Whitman, and likewise a study of any similar communications that may have passed between his employee, Mr. Eyanson, and the Manufacturers' Association of Connecticut.

It would likewise be interesting to know whether, as in the case of the National Wool Manufacturers' Association, Mr. Eyanson was voted any gratuity by the organization which he formerly represented.

I dare say that a careful study of that history by the Senator from Connecticut may result in some modification of his views concerning the ethics of the employment of Mr. Eyanson as secretary of the Committee on Territories and Insular Possessions while he was actually engaged in active service before the Committee on Finance.

I also desire to refer to the eulogium pronounced by the Senator from Indiana [Mr. WATSON] on the wisdom and the justice and the appropriateness of the selection of members of the majority of the Finance Committee. He commended their selection to us particularly because of the geographical distribution of the members, and wanted to know if a better selection could possibly be made from a geographical standpoint.

Three of the 11 members of the majority of the committee come from New England—the Senator from Connecticut [Mr. BINGHAM], the Senator from New Hampshire [Mr. KEYES], and the Senator from Vermont [Mr. GREENE]. Two other members come from two other Atlantic seacoast States north of Delaware—the Senator from New Jersey [Mr. EDGE] and the Senator from Pennsylvania [Mr. REED]. Four other members come from the region between the Allegheny Mountains and the Mississippi north of Tennessee. Two other members come from the extreme West—the Senator from Utah [Mr. SMOOT] and the Senator from California [Mr. SHORTRIDGE]—both of whom, as is perfectly well understood and as no doubt they will not deny, belong to what is known as the regular or reactionary wing of the party, and never under any circumstances are known to depart from the plan of that branch of the party.

It appears, Mr. President, as though a studied effort were made, in the selection of members of the committee, to exclude from that membership any Senator from any of the distinctly agricultural States. No member of the progressive wing of the Republican Party, so called, representing the distinctly agricultural West, was admitted to membership upon that committee. This could not have been accidental, of course. It must have been that they were deliberately excluded, unless, indeed, the Senator from Michigan [Mr. COUZENS] can be classified with those Senators.

Mr. SMOOT. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Utah?

Mr. WALSH of Montana. I yield.

Mr. SMOOT. The Senator from Michigan was selected in just exactly the same way that the other members have been selected. Wherever a Senator has served for any length of time, and is the senior Senator in service, and desires to be placed on the Finance Committee, that has been done.

Mr. WALSH of Montana. Now, Mr. President, to the matter before us.

The essential feature of the provisions under consideration contemplates the transfer of a part of the taxing power, as the present law transfers a part of the taxing power, from the Congress of the United States, the legislative branch, to the Presi-

dent, the executive branch. Whatever technicalities may be appealed to in this connection, there is no doubt at all that the power is thus given to the President of the United States to raise or lower duties on imports, and thus in effect to exercise the taxing power.

It is urged in behalf of this legislation that in the first place the Congress is unequal to the task of determining with that accuracy with which it ought to be determined the question as to what the rates should be upon the basis of the principle proclaimed, the difference in the cost of production at home and abroad; second, that it is unable to grant relief where relief is necessary with the celerity which is requisite to preserve industries that are threatened by foreign competition. These reasons were elaborated in the address with which this discussion was opened by the Senator from Utah [Mr. SMOOT], and were repeated in the interview with the President published in the papers on yesterday. They are, however, epitomized in the report of the committee which accompanies this bill. I read from it:

> In recognition of the obvious inability on the part of Congress to ascertain with exactness all the essential facts relating to the myriad items in a tariff act and to fix effective protective tariff rates to meet constantly changing competitive conditions, Congress in section 315 of the tariff act of 1922 empowered the President, after investigations by the Tariff Commission, to adjust and readjust the rates fixed by statute (subject to the limitations prescribed), so as to equalize foreign and domestic costs of production.

But, Mr. President, the power of the President in the premises was limited. He is authorized to raise or lower the duties only to the extent of 50 per cent of the rates prescribed in the bill.

The first question is, Why should there be any such limitation? If the Congress is unable accurately to fix the rate under existing conditions, or if the necessary celerity in the dispatch of the business can not be attained through action by Congress but must be reposed in the President, why should his power be limited to 50 per cent?

Take the case of pig iron, for instance: This bill, it is said, has been framed upon the basis of equalizing the differences in conditions of competition, and the Senate Finance Committee conceives that in order to do that it is necessary to raise the rate on pig iron just 100 per cent. If 100 per cent is necessary in order to equalize the differences, why should not the President of the United States be given that power? If it is the purpose to remove injustices and to correct errors in the bill, why allow them in part to remain?

Likewise, Mr. President, if a rate is too high and there no longer remains any difference in the costs of production of that particular article in this country and abroad, why should the President be restrained in his power to reduce the rate to a nullity, or to such a degree as to equalize the difference in the cost of production at home and abroad, however low it goes?

Moreover, why should we undertake to fix the rates at all? Why not just declare in the bill what commodities shall go on the dutiable list and what commodities shall go upon the free list, and then provide that the Tariff Commission shall ascertain the difference in the cost of production with respect to these commodities at home and abroad and give the Tariff Commission power to fix the rates?

It is a very simple thing. We could say these things go upon the free list, the other things go upon the dutiable list. Then the Tariff Commission could be authorized and directed to ascertain the difference in the costs of production, and the President would fix the rates accordingly.

If we gave that power to the President, what would be the difference in principle between that and giving him the power to raise or lower the rates 50 per cent? No one thinks of granting any such power as that to the President. It would be perfectly obvious, under those circumstances, that we would be granting to him a power which the people reposed in us.

Why was this extra session called at all? If the Congress is unequal to the task of ascertaining with reasonable accuracy what the difference is between the cost of production at home and abroad, or if the necessary celerity of action can not be secured through Congress, why was this extra session called?

It is said that, in addition to agriculture, some specific industries are in a depressed condition because of competition from abroad. Then why go farther than the agricultural rates and refer to the commission the obligation and the duty to ascertain what is the difference in costs of production in those lines of industry that are supposed to be suffering and delegate the power and move the commission to act in those specific cases? Is not the logic of the situation that the resolution of the Senator should have been adopted and the relatively few suffering industries among so many that are prosperous be relegated to the commission and the President under the flexible provisions of the law?

Mr. President, the rule which ought to govern in this matter is expressed in very persuasive language in a work on Limitation of the Taxing Power, written by Mr. Gray, recognized as a standard by lawyers, in which the author says:

> Legislative power is a trust for the whole people which the legislature can not transfer. The best safeguard of equality in taxation, as well as in other subjects of governmental action, is in the responsibility of the legislature to the people. So long as the power of taxation is directly exercised by the popular representatives, each section having its representative, the burden is far more likely to be distributed evenly among the people than if the power is exercised by some person or body not directly responsible to the whole people or perhaps not chosen by them.

Mr. BORAH. Mr. President, from what is the Senator quoting?

Mr. WALSH of Montana. I am quoting from Gray's Limitation on the Taxing Power.

Let us see how the system has worked. Of course, I realize that in view of the remarkable addresses of yesterday by the Senator from Wisconsin [Mr. LA FOLLETTE] and the Senator from Georgia [Mr. GEORGE], and the extraordinary address to which we have listened this morning by the Senator from Idaho [Mr. BORAH], much of what I say must necessarily be repetition, though I hope to present some considerations which may not be without value.

As heretofore remarked, the total number of decisions rendered by the commission and acted upon by the President during the seven years in which this system has been in operation are 37. The table given to me a couple of weeks ago by the commission contains only 34. Of those 37 decisions, 5 resulted in decreases and all the rest in increases in the duty.

Let me remark in this connection, Mr. President, that, as heretofore stated, this proposal for a flexible tariff, as it was called, did not originate in the House in 1922. The House bill carried the American-valuation system. That was resisted by the country, and when the bill came over to the Senate, eventually the Senate Finance Committee determined to report against that provision, and they proposed instead the flexible provisions, which were, after change, incorporated in the bill. The change which was made I shall advert to later.

Over in the House, support for the flexible provisions was invited upon the theory that the same result exactly would be accomplished as was hoped from the American valuation provision; in other words, that through the substitute scheme the duties would be raised. Over here, the Senator from Utah [Mr. SMOOT], one of the bill's active advocates, asked support for the measure because it would operate to reduce the rates confessedly high, and, thus by working both ends against the middle, the bill was eventually passed.

Because of the statement made by the President in his interview that in the last campaign Democratic leaders had advocated reposing in the commission greater power than that now conferred upon it by law, I add here that, when the question was before the Senate in 1922, there were just two votes on the Democratic side in favor of the flexible provisions. Every other Democrat voted against them, as well as distinguished Senators on the other side of the Chamber.

The attitude of the Democratic Party with respect to these flexible provisions, I undertake to say, is better determined and judged from the action of Democratic Senators in 1922, and by the platform adopted in 1928, than by anything that may have been said by irresponsible Democratic orators upon the stump during the last campaign. However, there were five of the cases reaching a conclusion before the commission which resulted in decreases in the rates.

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

Mr. WALSH of Montana. I yield.

Mr. EDGE. The Senator referred to irresponsible Democratic spokesmen on the stump. Is it not true that the nominee for the Presidency of the United States on the Democratic ticket very frequently indicated his support of the protective theory, and I think even went so far as to indicate support of the flexible provisions. He would not be termed an irresponsible spokesman, would he?

Mr. WALSH of Montana. I do not care to get into a discussion of that subject.

The commodities upon which a reduction was awarded were mill feeds and bran, bobwhite quail, paintbrush handles, cresylic acid, and phenol.

So, from experience, we may expect that the system will operate as to nonagricultural commodities in the future as it has in the past, to increase the rates which we fix in the bill.

But that is to be expected. That is not an extraordinary or inexplicable thing. There is a perfectly good reason for it, and that is that, save for the case of the importer, there is no one in the country who is particularly interested in securing a reduction of rates. Of course, any reduction would affect a vast number of people, and in the aggregate would in all probability amount to a very considerable sum; but to any particular individual or group of individuals a reduction is so inconsequential that it would not pay him or them to put up a fight for the purpose of securing reductions in rates or to defeat applications for increases.

So far as the importer is concerned, I suppose no one feels that his representations are entitled to very much consideration upon his own account, because, as a matter of fact, when it comes to a mere question of the interest of the importer against the interest of the domestic manufacturer, everybody, for obvious reasons, is in favor of the domestic manufacturer. The importer is listened to, because his interest is often in harmony with the interest of the great body of the consumers throughout the country. So if he goes before the commission he is regarded as an interested party and interested for the foreigner as well as for himself. Naturally he does not receive the consideration accorded to the domestic manufacturer.

Mr. President, the great body of consumers in the country who are interested financially in the reduction of rates, and equally interested financially in preventing an increase in rates, are not heard at all. It is just exactly the same before the commission as it is here. Those who desire increases of rates crowd the corridors of the Capitol and haunt the rooms of the committees dealing with the tariff, but the great body of consumers of the country are obliged to rely upon what may be said in their behalf here upon the floor of the Senate by the representatives whom they have elected and sent here.

Therefore it is to be expected, and there is nothing extraordinary about it, that the action of the Tariff Commission will be in the direction of raising rates, rather than lowering rates. Indeed, I have thought that it would not be unwise if we provided for the appointment of an attorney or counsellor, an advocate for the consumers of the country, and paid him a good, liberal salary to appear before the commission and oppose, if he should be so advised, every application for an increase, so that both sides to the controversy could be heard.

Mr. GLENN. Mr. President, I suppose the Senator means on the theory on which in some States public defenders are provided.

Mr. WALSH of Montana. Yes; exactly so. Before the utility commissions in the various States the public have a representative, the attorney general, or the attorney for the utility commission, whose business it is to oppose every application for an increase in rates. But there is no such provision here. So it is to be expected that these raises will be made.

This provision is put in the bill for the express purpose of getting increases in the rates, and I speak so upon the basis of our experience in the past, as well as upon the reasons to which I have now adverted. That is in entire accord with the policy of the Republican Party.

A few days ago the distinguished senior Senator from Ohio [Mr. FESS], being interrogated on the floor, said that he was in favor of protection which led to free trade. That was, in substance, the doctrine and the theory of Alexander Hamilton and of Henry Clay. They argued that, with industries not well developed in this country, a protective tariff would give them an opportunity to carry on their business at a fair profit, and thus others would be induced to go into those industries; they would be developed, the producers would compete against each other, and eventually prices in this country would be reduced to such a low level that a protective tariff would not any longer be necessary, that when the great industries so promoted were established on a firm footing they would be able to compete with industries elsewhere in the world.

I do not know whether that is still the doctrine of the Republican Party or not. I rather imagine it is not. The idea now is to keep up the tariff forever. But let us see how well we are working toward the ideal of Hamilton and of Clay thus expressed by the Senator from Idaho.

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

Mr. WALSH of Montana. Certainly.

Mr. KING. I would like to have the Senator's observation corroborated by the statement made by President Garfield upon one occasion when a Member of the House and upon another occasion, I am advised, on the stump, when he said that protection carried to its ultimate conclusion would lead to free trade.

Mr. WALSH of Montana. I remember it very well. Mr President, how well are we proceeding in that direction? Bear in mind we are now engaged in the consideration of a bill which affects the most substantial raises in practically every schedule of the law as it now stands or of the bill here before us.

We are furnished by the United States Tariff Commission with a comparison of rates of duties in the pending tariff bill of 1929 and in the present law. The comparison is given with respect to each particular item, but there is a summarization of them on the first and second pages from which it appears that in respect to the first schedule, chemicals, oils, and paints, the act of 1922 on the basis of the importations in 1928 levied a duty of 29.35 per cent—that is, for the entire schedule. The Senate Finance Committee recommends that the rates proposed by the House, which are 32.34 per cent, be reduced so that they shall amount to 29.83 per cent ad valorem, a slight increase over the present law.

Next is earthenware. The average for the whole schedule in the present law is 45.35. The House proposes to raise that to 54.72 per cent, and the Senate Finance Committee proposes 53.26 per cent, an increase from 45.35 to 53.26.

In metals and manufactures of metals apparently a decrease has ensued, but, as has heretofore been explained, that apparent decrease results almost, if not entirely, from the placing of manganese on the free list. But for the change mentioned there is a raise in the rate on metals and manufactures of metals. In view of the factor referred to, the figures are 33.82 in the act of 1922, 36.49 as proposed by the House, and 29.51 as proposed by the Senate Finance Committee.

Next is wood and manufactures of wood. There is likewise an appreciation there, due to the fact that lumber and shingles are to be made dutiable by the House bill raising the average from 15.85 to 25.24, the former being the 1922 rate and the latter the rate proposed by the House. The Senate Finance Committee, by restoring the commodities named to the free list, would leave the average rate without change.

Then we come to sugar. The present law carries a duty of 67.85 per cent. As the bill came from the House it carries a duty of 92.36. The Senate Finance Committee proposes a duty of 84.75 per cent.

On tobacco and manufactures of tobacco the 1922 law fixes a rate of 63.09, the House proposed a rate of 66.96, while the Senate Finance Committee amendment proposes the present rate of 63.09.

The average rate in the agricultural schedule is 22.55 in the 1922 law, 33.59 as fixed by the House, and 32.66 as proposed by the Senate Finance Committee amendment.

Spirits, wines, and other beverages: 1922 act 35.98, House rate 43.90, and Senate Finance Committee rate 43.90.

Manufactures of cotton: 1922 rate 40.26, House rate 43.58, Senate Finance Committee 42.28.

Flax, hemp, jute, and manufactures of: 1922 rate 18.16, House rate 18.80, Senate Finance Committee rate 18.92.

Wool and manufactures of wool: 1922 rate 49.64, House rate 58.07, Senate Finance Committee rate 56.84.

Manufactures of silk: 1922 rate 56.56, House rate 60.17, Senate Finance Committee rate 62.45.

Manufactures of rayon: 1922 rate 52.73, House rate 53.13, Senate Finance Committee rate 53.84.

There is an increase in every schedule to which I have called attention, except metals and manufactures of metals and wood and manufactures of wood, which are given a lower average for reasons stated, and in the tobacco schedule, which the House proposes to increase and the Finance Committee would leave as it is.

Mr. EDGE. Mr. President, the Senator means over existing law?

Mr. WALSH of Montana. Yes; over existing law.

Mr. EDGE. But not over the House figures?

Mr. WALSH of Montana. I am speaking about the prospect of arriving at that situation which the Senator from Ohio [Mr. FESS] is desirous of coming to eventually—free trade—and that notwithstanding the fact that we are enjoying a period of prosperity for the industrial interests of the country the like of which the country has never before known. For instance, yesterday's papers carry the following from the Associated Press:

> The Nation's tax bill which in the fiscal year 1929 totaled $2,938,019,000, will be cut next year because business prosperity is rolling up an unequaled amount of the income taxes.

The September report of the Federal Reserve Bank of New York, to which I think reference has heretofore been made, contains the following:

> Accompanying the continuance of a very high rate of business activity during the second quarter of this year, net profits of 236 commercial and industrial concerns for the quarter were 31 per cent larger than in the corresponding period of 1928, and showed even larger increases over the reported net profits of the second quarter in the two preceding years.

While the reports from the limited number of companies making quarterly statements perhaps tend to present a more favorable showing than would returns from all corporations, it is still evident that the general level of net earnings during the period must have been unusually high.

In that situation of affairs, Mr. President, we are asked to pass a tariff bill which increases the rates in every schedule of the present law except a few to which I have adverted. But that is not extraordinary. If we shall pass the bill in substantially the form in which it is now before us or in any form in which it is likely to pass this body, it will mean a substantial increase in the rates over those of the act of 1922. The act of 1922 increased the rates above the rates fixed in the Payne-Aldrich bill of 1909. The Payne-Aldrich bill of 1909 increased the rates fixed by the Dingley law of 1897, and although the Republican Party came into power in that year upon a promise to revise the tariff, which was understood to be a revision downward, it proceeded to revise the tariff upward; and so every revision under Republican domination for the last 30 years and theretofore has effected a raise in the rates. The bill before us is no exception. At the rate at which we are proceeding there is a long road to travel before arriving at that ideal condition looked for by the Senator from Ohio. The Republican Party always increases the tariff; it never reduces.

So it is entirely consistent with the policy of the Republican Party to put these flexible provisions in the bill in order that the rates which we fix shall be raised higher.

I want to call to the attention of my friends here representing agricultural constituencies a consideration to which they may not have given the thought to which it is entitled. Bear in mind it is the duty of the President to make and the language of the act that he "shall" make this inquiry into the difference in cost of production at home and abroad, and when he ascertains that fact he "shall" fix the rates accordingly. The Senator from Pennsylvania [Mr. REED] the other day told us that in fixing the rate on casein a figure was arrived at three and one-half times the difference in the cost of production at home and abroad. The distinguished Senator from New Jersey [Mr. EDGE], who I am glad to see is now present, told us with perfect frankness that in all the agricultural rates the committee totally disregarded the rule of difference in the cost of production at home and abroad and raised the duty substantially above that necessary to meet such difference.

When the President is called upon to make these investigations and to fix the rates accordingly, what is he to do except to reduce every agricultural rate in the bill? If there is any Senator here representing a purely agricultural constituency who will vote for the bill after the statement made by those two Senators who are so influential in this legislation, I undertake to say he will have some explaining to do to his constituents. This session was called to extend relief to depressed agriculture as its primary object, among other methods by an adjustment of the tariff in its interest. The rates on agricultural products were increased and now it is proposed to sanction machinery by which what is granted by the bill will be taken away by the commission.

Mr. President, I want to call to the attention of Senators the difference in the proposal so far as the flexible provisions are concerned as found in the House bill and as found in the present law. Bear in mind that it is of no particular consequence that we shall adopt the substitute offered by the Senator from Utah [Mr. SMOOT]. The bill will go into conference. We have no assurance whatever that when it comes out of conference the House language in relation to the flexible provisions will not be in the bill as it is reported by the committee of conference. So it becomes exceedingly important that we should understand perfectly what the proposal is in the bill as it passed the House and which may eventually characterize the bill in its completed state.

I desire to say with respect to that that whatever may be said in support of the constitutionality of the Smoot amendment—that is to say, the present law—I venture to assert that no man will stand upon the floor of the Senate and attempt to justify upon constitutional grounds the provision of the bill as it came to the House with respect to the flexible tariff.

Mr. EDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from New Jersey?

Mr. EDGE. I do not want to interrupt the Senator if he does not desire to be interrupted.

Mr. WALSH of Montana. I am very glad to yield.

Mr. EDGE. Would not the same condition exist, so far as the conference is concerned, whatever might be the action of the Senate, whether we adopt the so-called Smoot proposal or defeat it? The fact would still remain that the conference committee would have complete power to adopt any part of the House provision.

Mr. WALSH of Montana. That is true. If we should adopt the proposal of the Senator from North Carolina [Mr. SIMMONS] to strike out of the bill entirely all the flexible provisions, we might get back a conference report with substantially the House provision in it.

Mr. EDGE. I merely wanted to point out that it made no difference to the Senate so far as the character of the conference report is concerned.

Mr. WALSH of Montana. In either case it becomes exceedingly important for us to know what the House provisions are and in what respect they differ from the proposal as represented by the amendment offered by the Senator from Utah [Mr. SMOOT].

I referred heretofore, Mr. President, to the fact that the idea of a flexible provision of the tariff bill did not originate in the House of Representatives; it was not in the House bill in 1922 as it came to this body, but was proposed by the Senate Committee on Finance, and was found in the bill as it was reported by that committee to the Senate. However, it did not come to the Senate from the committee in the form in which it was eventually adopted. It came from that committee in practically the identical language of the pending House bill. The essential difference between the two, at least one of the important features is, that in the House bill the test is to be "the difference in conditions of competition" between this country and foreign countries, while in the present law and in the amendment proposed by the Senator from Utah the test is the difference in the cost of production at home and abroad; but the proposal as it originally came from the Senate Finance Committee in 1922 made "differences in conditions of competition" the test upon which the rates were to be fixed.

Mr. BARKLEY. Mr. President, will the Senator from Montana yield at that point?

Mr. WALSH of Montana. I yield.

Mr. BARKLEY. What is the real difference between the provision of the House bill as to the differences of competing conditions and the effect of paragraph (c) on page 4 of the pending amendment which describes the things to be taken into consideration by the President in arriving at his conclusion?

Mr. WALSH of Montana. I will come to that. I now read section 315 (a) as the bill of 1922 was originally reported to the Senate by the Finance Committee and as Senators who have the pending bill before them and will follow my reading will see that the language is identical, except in a single particular presently to be referred to:

That in order to regulate the foreign commerce of the United States and to put into force and effect the policy of the Congress by this act intended, whenever the President, upon investigation of the differences in conditions of competition in trade in the markets of the United States of articles wholly or in part the growth or product of the United States and of like or similar articles wholly or in part the growth or product of competing foreign countries, shall find it thereby shown that the duties fixed in this act do not equalize the said differences in conditions of competition in trade he shall, by such investigation, ascertain—

that fact and shall proclaim it, and so forth, the language following to the effect that the rate so proclaimed shall thereafter be the controlling rate.

I ask permission, Mr. President, to have so much as is here indicated by a line in the margin of the bill to which reference is made incorporated in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The matter referred to will be found as Exhibit A at the conclusion of Senator WALSH's remarks.)

Mr. WALSH of Montana. After that bill was reported containing the provisions to which I have called attention, argument followed upon the floor of the Senate against the constitutionality of that feature of the measure, and eventually the provisions so assailed were eliminated, and those which now appear in the law were substituted in their stead.

Another change was made with respect to language which I shall now read:

Whenever the President * * * shall find it thereby shown that the duties fixed in this act do not equalize the said differences in conditions of competition in trade, he shall, by such investigation, ascertain said differences and determine and proclaim—

Now observe—

changes in classification or forms of duty or increases or decreases in any rate of duty.

In the revised Senate committee amendment the words "forms of duties" were eliminated. The argument had evidently

alarmed the sponsors for the bill and an effort was made to free it from its more vulnerable features.

The Smoot amendment and the present law are the same in that respect. They both omit the words "forms of duties" but retain "changes in classification."

"Changes in classification," as I understand, relates to changes from one paragraph to another where a different rate prevails, and "changes in forms of duty" I understand to be a proposal to change ad valorem duties to specific duties, or vice versa.

Mr. President, if we can constitutionally grant this power to the President, why should we not give him the right to transfer specific rates to ad valorem rates in order to equalize the difference in the cost of production? Evidently Senators on the other side, enlightened by whatever discussion took place upon the floor, concluded that they had better not take a chance on giving any such power to the President. So I believe it has been the reasoned conclusion of the Senate of the United States that an act would be unconstitutional framed in the language of the House provision of the bill before us.

Mr. President, the amendment offered by the Senator from Utah proposes that the test shall be such as is in the present law, namely, the difference in the cost of production at home and abroad.

For many years it has been proclaimed that that is the proper basis upon which tariff legislation should be enacted; that the rates should be such as to cover the difference in the cost of production at home and abroad. Although that principle has been unctuously proclaimed, it has been contemptuously disregarded in actually fixing rates, as everyone who is familiar with the subject can attest.

The fact is, as has been stated here this morning, that a perfectly impossible task is put up to the Tariff Commission and to the President of the United States to ascertain what is the difference in the cost of production at home and abroad. That phrase sounds well, but let us see what the situation is. A certain country has particular advantages of location, of opportunities for shipment, and various other considerations which enable it to produce a certain commodity at a very low cost; another country is not so fortunately situated; the cost of production there will be a little higher; another country is still less favorably situated, and the cost of production in that country will be still higher; and possibly in the United States the situation is such that the cost of production, in view of the higher rate of wages paid here, may be the highest of all. When we come to ascertain the difference in the cost of production between this country and some other country, how can we possibly arrive at anything like exactitude in the determination of the cost of production?

But that is not all. Even in the same country the cost of producing a particular article varies greatly among producers of the same article. The subject of pig iron was referred to here the other day. It was stated that the United States Steel Corporation, for instance, is engaged in the production of pig iron. Although it probably sells none, it uses its output in the production of its perfected products. That corporation is so situated that it can produce pig iron at a very low cost compared with the cost that is entailed upon what are called the merchant furnaces, which either buy their ore from some one else in this country or import it from abroad; other conditions also affect costs; so that those of the United States Steel Corporation, as I think is generally understood, are really very much lower than the costs of many of its competitors. Then which is to be the cost of production at home of pig iron, for instance? Is it to be the cost in the case of the United States Steel Corporation or is it to be the cost of some poorly managed merchant furnace or some other concern that is differently situated and less advantageously circumstanced?

It will be understood that the United States Steel Corporation has great deposits of iron ore in Minnesota, mined at little cost as compared, for instance, with the cost of mining across the line in the State of Wisconsin or in the State of Michigan. It has its own ships transporting the ore from Duluth to Buffalo or Erie; it has its own railroad for transporting its ore to its mills and its products to its customers. So it is able to produce its commodities for sale at a very much less cost than others engaged in the production of the same class of commodities.

Which results are to be taken in order to ascertain what are the costs of production in this country? So, Mr. President, it is said the difficulty about arriving at what is the difference in the cost of production prompted perhaps among other reasons the change in the law which is proposed.

I find at page 65 of the report of the Finance Committee, for which, I take it, the Senator from Utah [Mr. SMOOT], in charge of the bill, is presumably responsible, the following statement referring to the present law:

> A few difficulties which have arisen under the present law, however, must be removed if the expressed policy is to be put into force effectively. The ascertainment of costs of production has often required such prolonged investigations that necessary readjustments have been denied for two or three years. In many instances, the commission has found it impossible to ascertain foreign costs of production, with the result that readjustments, the necessity for which was apparent and admitted, have been denied altogether. Again, it was found that costs of production alone did not accurately reflect competitive conditions and that equalizing costs of production would not be sufficient to avoid damaging competition to the country's industries. Foreign and domestic competition in the markets of the United States must be equalized.
>
> Accordingly, the House bill substitutes, as the principle to which the President must conform in carrying out the purpose of Congress, the equalization of "conditions of competition in the principal market or markets of the United States between domestic articles and like or similar competitive imported articles." Your committee approves this change, and it is believed that this standard will permit more speedy adjustments, that the conditions will always be ascertainable, and that the resulting changes in rates will conform more nearly to the acknowledged policy of the Congress.

In other words, the Senate Finance Committee tells us practically that the present law is a failure, and in the course of a week or two they conclude that the substitute which they have offered is a failure, and then they ask us to give our indorsement to that plan which they have just condemned. Notwithstanding it was advanced that by the change originally proposed greater speed would ensue in relieving the distressed condition of the industry and notwithstanding they tell us that sometimes two or three years have intervened before any relief could be secured under the provisions of the present law, as is the fact, the Senate is now asked to reenact the law thus declared to be a failure.

I realize, Mr. President, how futile it is to talk about the unconstitutionality of this legislation even of the House provisions now repudiated by the Senate committee. The doubt which but for the decision of the Supreme Court would attend the legislation is intensified by the change proposed by the House bill.

What is meant by "differences in conditions of competition"? Of course, differences in cost of production enter into differences in conditions of competition; but many other elements enter into differences in conditions of competition. Some foreign house may have more high-powered salesmen, able to overcome sales resistance better, than the American house engaged in the sale of the same article. It may put up its goods in a more attractive manner than the American producer. It may more successfully consult the predilections or the prejudices of the particular kind of customers to whom it expects to sell its goods. A lot of differences in competition may exist outside of the mere question of cost of production. But the bill undertakes to give us the factors which must be considered by the President in determining the differences in conditions of competition; and I shall presently call your attention to the fact that one of the most important of these, as mentioned by the Senator from Kentucky [Mr. BARKLEY], is in the present law, and would continue so if the amendment of the Senator from Utah [Mr. SMOOT] were adopted.

I pause to remark that everyone agrees that in order that a statute delegating power of this character shall be held valid there must be no question of judgment or discretion reposed in the executive officer or administrative body. As stated, the legislature may pass a law which is to go into effect upon the happening of a future contingency or the determination of a fact. That was the situation in Field against Clark—whether the President was or was not required to exercise judgment and discretion concerning the effect of tariff legislation by countries to which we were selling our agricultural products is a matter of no consequence. Whenever the President, under the McKinley Act, should determine that the foreign statutes were contrary to the principle of reciprocity, then the rates fixed by our statute were to go into effect; all that was necessary was for the President so to determine. Whether he was right in determining it or whether he was wrong in determining it mattered not. Whenever he determined that the foreign rates were unjust to our people, considering the concessions that we made to them, then the new rates fixed by the law went into effect. And so, Mr. President, the fact must be one that can be determined and decided.

An eminent writer upon this subject, Willoughby, in his work on the Constitution, says:

The facts which are to determine the Executive acts must be such as may be precisely stated by the legislature and certainly ascertained by the Executive.

Let us see how certainly these facts can be ascertained by the Executive. No discretion at all must be left in him. It must be a simple question of the ascertainment of a fact. The fact that he is called upon to determine is, as provided in the House bill, difference in conditions of competition; and in order to arrive at that difference the bill says he shall take into consideration, in so far as he finds it practicable and applicable—

(1) Costs of production of the domestic article or the price at which such article is freely offered for sale to all purchasers in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities in such market.

Bear in mind, Mr. President, he is entitled to take into consideration either one of these two things. Of course, the price at which the article is offered for sale in the United States under all ordinary circumstances must be higher than the cost of production, because if it were not any higher the article would not be sold here. There must be some profit in the transaction.

The President is entitled to take into consideration either the cost of production or the American selling price, whichever he sees fit. In other words, he may exercise his judgment and discretion; and thus the validity of the law is destroyed.

We go on:

2. Costs of production of the imported article, or the price or value set forth in its invoice, or its import cost as defined in subdivision (e) of section 332.

Mr. KING. Mr. President——

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

Mr. WALSH of Montana. I do.

Mr. KING. Before the Senator discusses the matter to which he has just called attention, I should like his view as to the words "in so far as he finds it practicable and applicable." Do not those words give to the President a very large field of discretion? He may determine whether he is to invoke a rule, if it is practicable. One President might deem it practicable to adopt a certain method, and another President might determine that certain facts were not to be practically applied; so it seems to me that a great latitude is allowed there and a great discretion.

Mr. WALSH of Montana. Undoubtedly, undoubtedly; and so, Mr. President, I insist that this language gives the President the power to raise or lower the rates largely as he sees fit.

Mr. SMOOT. Mr. President——

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

Mr. WALSH of Montana. I yield.

Mr. SMOOT. The Senator must also call attention to the amendment I offered on page 3, beginning with line 21, which reads as follows:

The ad valorem rate or rates of duty based upon such American selling price shall be the rate found upon said investigation by the President, to be shown by the said differences in costs of production necessary to equalize such differences, but no such rate shall be decreased more than 50 per cent of the rate specified in Title I of this act upon such articles, nor shall any such rate be increased.

In other words, if there is a rate of 25 per cent upon an article, and an investigation is made by the Tariff Commission and its result reported to the President, and an increase is found necessary by the investigation of the Tariff Commission, the President under this amendment has no power whatever to increase the rate above the one fixed in the bill.

Mr. WALSH of Montana. The Senator is talking about subdivision (b)?

Mr. SMOOT. Yes. That applies to all of the rates under the American valuation.

Mr. WALSH of Montana. No; we have not reached the subdivision (b) at all.

Mr. SMOOT. But we can not consider one without the other.

Mr. WALSH of Montana. Mr. President, there are two provisions in the law as it exists, and two provisions in the amendment offered by the Senator from Utah. The first provision gives the President power to raise or lower the rates within 50 per cent. That is all there is to that. Then subdivision (b) provides that if the President finds that that does not cover the difference in the cost of production he may then establish the American-valuation rule, and in applying the American-valuation rule the feature to which the Senator has now called attention is applicable. It has not anything at all to do with subdivision (a).

But, Mr. President, I call attention to the fact that of course if the American valuation be established there is no need of any increase, because that of itself will give the increase, since the President may proclaim the American valuation only when the increase deemed necessary can not otherwise be secured. That was the purpose of the American-valuation proposal—in order that the rates might actually work out higher than if they were figured upon the foreign cost of production or the foreign invoice price.

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

Mr. WALSH of Montana. Yes.

Mr. KING. I call the Senator's attention to the fact that in two cases, at least, where the President resorted to the American selling price he found that the duty would be so high that he reduced the rate based upon the American selling price—not only the ad valorem but the specific rate.

Take, for instance, taximeters. My recollection is that the duty under the ad valorem rate was $3 for a taximeter, and 30 per cent, possibly more; I have forgotten the exact amount. The President placed taximeters under the American valuation, and the rate would have been so extortionate—indeed, prohibitive—that he reduced the value to $1.50, and also reduced the ad valorem, and yet of course raised a much larger revenue than he would under the application of the law.

Mr. SMOOT. Mr. President, will the Senator from Montana yield to me?

The VICE PRESIDENT. Does the Senator from Montana yield to the senior Senator from Utah?

Mr. WALSH of Montana. I yield.

Mr. SMOOT. I will tell the Senate the facts in the taximeter decision.

The rate on taximeters was 45 per cent on foreign valuation, and the President declared the rate to be 27.1 per cent on American valuation. That was the rate which was proclaimed by the President; and the reason why the American valuation was taken in that case was that the 50 per cent allowed by the law did not equalize that difference.

As my colleague has said, there were some three others; but this is the only case where a rate was changed from existing law when the item itself was put upon the basis of American valuation; and instead of being 45 per cent on foreign valuation on taximeters it was made 27.1 per cent on American valuation.

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

Mr. WALSH of Montana. I yield to the junior Senator from Utah.

Mr. KING. I do not know whether or not my colleague intended to challenge the accuracy of the statement I made. I am not able to understand his remarks in that regard. What I did say I repeat, and nothing that the Senator has stated controverts the position which I took; namely, that when the President came to apply the power which was given to him under the flexible-tariff provision with respect to taximeters he found that the adoption of the American selling price as the base for the computation of the duty would make the duty, with the application of the same rates, so high as to be practically prohibitive; and therefore he was compelled in good conscience to reduce the ad valorem rate, as stated by my colleague, and as I stated at the outset.

I merely mentioned that to show that under this tremendous discretion which is given under the flexible-tariff provision the President can change to the American valuation; and if he finds that under the American valuation, the American selling price, the duties would be too high, he can then reduce the ad valorem rates which were fixed in the Fordney-McCumber Act, and, of course, which will be fixed in the present statute.

Mr. SMOOT. Mr. President——

Mr. WALSH of Montana. I think it hardly fair to go into that in the midst of my discussion.

Mr. SMOOT. Will the Senator yield?

Mr. WALSH of Montana. I hope the Senator will be brief.

Mr. SMOOT. I was simply going to say that the object of my statement was to give the facts just as they were. I was not contradicting anything in any way. I was simply giving the facts in that case as they actually existed, as shown by the report.

Mr. WALSH of Montana. Mr. President, I said I am not going to discuss the question of the constitutionality of this measure in view of the decision of the Supreme Court, except as the question remains unsettled in respect to the bill as it came from the House. But I want to call attention to the fact that the act was sustained by the opinion of the Supreme Court by

the adroit avoiding of every controversial question there was in the case, the court contenting itself with glittering generalities concerning propositions which no one denied or controverted.

For instance, attention was called in the debate on the floor to the difficulty of determining the conditions of competition as between one country and another country, and as between one producer and another producer, and that judgment and discretion must be exercised in arriving at any conclusion. The court does not discuss that element at all. The court simply assumes that it is a mere matter of computation as to what the differences in the costs of production are.

No consideration was given to the provision of the law which authorized the President, upon the report of the commission, to change a classification and to take a commodity out of one paragraph in the law and put it into another paragraph of the law.

It gave no consideration whatever to a most important provision in the law of which I have spoken, by which the President was authorized to take either the cost of production or the American selling price, whichever he saw fit.

Most important of all, the law as it exists and the proposal of the Senator from Utah require the President to take into consideration "advantages in competition" outside entirely of the cost of production; and the Supreme Court never gave any consideration to that feature of the law.

Let me read the proposal of the Senator from Utah, subdivision (c), on page 4:

> That in ascertaining the differences in costs of production, under the provisions of subdivisions (a) and (b) of this section, the President, in so far as he finds it practicable, shall take into consideration (1) the differences in conditions in production, including wages, costs of material, and other items in costs of production of such or similar articles in the United States and in competing foreign countries.

So far, so good. The test is the differences in the costs of production. That is what the President is to find out. But he is to take into consideration not only that, but—

> (2) The differences in the wholesale selling prices of domestic and foreign articles in the principal markets of the United States.

It does not say he is to take that into consideration if it is impossible for him to find out what the differences in the cost of production are. He may take either the one or the other. He may be guided by one or the other, just as he thinks wise.

> (3) Advantages granted to a foreign producer by a foreign government, or by a person, partnership, corporation, or association in a foreign country.

That, perhaps, is all right. Finally:

> (4) Transportation costs and any other advantages or disadvantages in competition.

Bear in mind, he may, indeed the law says he shall, take into consideration not only the differences in costs of production, but also any other differences—any differences of competition. This important feature of the law entirely disregarded by the court subjects it to whatever just criticism may be lodged against the House bill on constitutional grounds.

I speak about this now not for the purpose of assailing the constitutionality of this measure at all but for the purpose of showing that the President is vested with wide judgment and discretion in relation to this whole matter, and can either raise the rates or lower them practically as he sees fit.

Reference has been made here, and in the opinion of the Supreme Court, to the power given to the Interstate Commerce Commission to fix rates for transportation over our railroads, and it is said that that furnishes abundant support for the reposing of this power to tax in the President, aided by the Tariff Commission. What merit is there in that contention?

Always the power to determine whether a rate charged by a public utility is or is not a reasonable rate has been reposed in the courts. Prior to the time that we had railroads, when travel was by stagecoach, and the farmer had his wheat ground at a custom mill, the law fixed the charge at a reasonable sum to be eventually determined by a court. And so, when modern means of travel by land were made use of, railroad rates were settled in like manner. There always was a tribunal before which one who was interested could go to have ascertained and determined what was a reasonable rate.

If a railroad charged an unreasonable rate, it was obliged to refund if the charge had been paid, or it could recover, if it sued, only what was reasonable, no matter what its rates were. The power to regulate those matters we found it convenient to repose in the Interstate Commerce Commission as a quasi-judicial body, and so the rates are now determined, instead of forcing the individual shipper to go into a court and have the matter adjudicated.

Mr. President, whenever such rates are fixed by the United States Commerce Commission, if they are not such as give a reasonable return to the railroad company upon the money it has invested in the enterprise, it has the right to appeal to the courts. That right can not be taken away from them because of the provision of the Constitution that no person shall be deprived of his property without due process of law.

But bear in mind there is no such recourse in the matter of taxation. When the authorized taxing powers impose a tax within the limits of the Constitution, there is no escape, there is no review of the imposition. Even though the tax shall be confiscatory the taxpayer has no remedy.

Marshall said, as has heretofore been mentioned to-day, that the power to tax is the power to destroy. So, when a railroad company is required by the Interstate Commerce Commission to carry at a certain specific rate, if it is not satisfied with that, if it says that that is not a reasonable rate, that that is a confiscatory rate, it has its remedy. But what can the taxpayer do if the Tariff Commission or the President says that such and such a rate is a proper rate? There is no appeal of any kind, no review at all, and there never has been, and probably there should not be any review by a higher tribunal of the rates imposed by the proper taxing officers. So that the reference to the reposing of this power in the Interstate Commerce Commission is, as I think it, quite beside the subject.

Then in the same connection the distinguished Senator from Pennsylvania, who I regret to say is not on the floor, spoke about these rates being fixed by a perfectly impartial, quasi-judicial body, which would hear the case just as if it were a case in court, and those who oppose this legislation are charged with being afraid to have the rates determined upon the facts as they shall be found by this judicial body.

We have some traditions in relation to judicial bodies in this country, and one of them is that any attempt to influence the judgment of a judge or a court by appeals to him outside of the court by anybody is a crime and a contempt of the court for which he would be liable to imprisonment.

The distinguished Senator from Wisconsin [Mr. LA FOLLETTE] gave us some interesting information in his splendid speech of yesterday upon how well the Tariff Commission conforms to our views about quasi-judicial bodies or courts. The story was not new, of course. The matter had been perfectly well understood. But he told us:

> On May 24 [1924], following the decision of the commission to take up the consideration of the sugar report—

Which in one way or another had been delayed or defeated from time to time, the proceedings having been instituted some three months after the passage of the act of 1922—

> On May 24, following the decision of the commission to take up the consideration of the sugar report, Commissioner Culbertson was invited to come to the office of the senior Senator from Utah [Mr. SMOOT] in the Senate Office Building. Commissioner Culbertson found there Members of Congress from sugar-growing States and lobbyists and attorneys representing sugar interests. An hour's conference took place. I ask Senators to remember that the sugar case was pending in the commission; that a public hearing had been held; that arguments had been made, briefs submitted, and the report of the chief of the sugar division was pending before the commission for consideration when Commissioner Culbertson was invited to come to the office of the senior Senator from Utah, there to meet with attorneys, Members of Congress from sugar-growing districts, and lobbyists. As I have said, an hour's conference took place. Spokesmen for the sugar interests presented objections to the method used by the commission in the wheat and sugar cases.

Let us assume, Mr. President, that the Hampton case is before the Supreme Court for consideration, it has been argued, counsel have said everything they can say about the matter to the Supreme Court, and it is now under consideration, and some Senator invites the judges over to his office in the Senate Office Building, and brings in a crowd of people to talk about the matter. What would we say about that? We do not say anything about the incident chronicled as above because we recognize that there is a wide difference between this tribunal down here and an ordinary court.

Mr. President, I speak about these matters, not, as was feared by the Senator from Florida [Mr. FLETCHER], that we are endeavoring to overturn the decision of the Supreme Court, but for the purpose of showing what large latitude is accorded to the President of the United States in determining these matters.

I want to call attention to this particularly. Bear in mind that the test is the difference in the costs of production, and the President, in determining the rates is entitled to take into consideration not only the differences in costs of production, but

he is also to take into consideration any other advantages in competition that may be afforded one producer over another. Under those circumstances, he is not restricted to the differences in cost of production, and if he goes to any lengths, how can it be said that he has in any manner abused his power?

Mr. President, I have said practically all I care to say about the matter. In my estimation the Tariff Commission is an invaluable agency of the Government. I urged as early as 1913 the creation of such a body for the purpose of assembling all available information concerning questions relevant to the questions presented in the making of tariff bills. It ought to be preserved for the purpose for which it was created—to procure such information and put it at the command of Congress to aid it in its work.

Let us recur, Mr. President, to the reasons that are offered why we should grant this extraordinary power to the executive branch of the Government—that the Congress can not do the work well; that it is diverted from this duty with so many other important obligations; that it is impossible for the Congress to determine accurately the differences in the cost of production or the differences in the conditions of competition; that many injustices will thus creep into a tariff bill and that it will take a long time to get them corrected; in other words, that the President can do these things very much better than the Congress can.

That is the song that has been sung by despotism throughout all the ages. That is why it is that all power in Italy is vested in Mussolini, because the representatives of the people are inadequate to the task of legislation imposed upon them. That is the reason why the Cortes in Spain has become no longer an active legislative body and all power has been assumed by Primo de Rivera. Pilsudski believes that the Diet of Poland is incapable of discharging the important duties that should devolve upon it, and thus he absorbs all the power of the State. Louis XIV expressed the same view in an epigram.

Let us, as suggested by the Senator from Idaho [Mr. BORAH] this morning, avoid giving any countenance to doctrines of that kind subversive of every principle upon which our Government is established. The Tariff Commission ought to be continued to discharge the work for which it was created. We should not impose upon it the obligation to levy duties—and that is what this scheme amounts to, because it is perfectly obvious to everybody that the President can not possibly devote the necessary time to it, that his connection with the thing will be largely nominal. To repose any such power in the President or the Tariff Commission is not only violative of fundamental principles of government but it is contrary to sound business principles.

APPENDIX

EXHIBIT A

SEC. 315. (a) That in order to regulate the foreign commerce of the United States and to put into force and effect the policy of the Congress by this act intended, whenever the President, upon investigation of the differences in conditions of competition in trade in the markets of the United States of articles wholly or in part the growth or product of the United States and of like or similar articles wholly or in part the growth or product of competing foreign countries, shall find it thereby shown that the duties fixed in this act do not equalize the said differences in conditions of competition in trade he shall, by such investigation, ascertain said differences and determine and proclaim the changes in classifications or forms of duty or increases or decreases in any rate of duty provided in this act shown by said ascertained differences in conditions of competition in trade necessary to equalize the same in the markets of the United States; that 30 days after the date of such proclamation or proclamations such changes in classification or in forms of duty shall take effect and such increased or decreased duties shall be levied, collected, and paid on such merchandise when imported directly or otherwise from the country of origin into the United States: *Provided*, That until further provided by law the total increase or decrease of such rates of duty shall not exceed 50 per cent of the rates specified in this act, or in any amendatory act.

(b) That in order to regulate the foreign commerce of the United States and to put into force and effect the policy of the Congress by this act intended, whenever the President, upon investigation of the differences in conditions of competition in trade, in the markets of the United States, of articles wholly or in part the growth or product of the United States and of like or similar articles wholly or in part the growth or product of competing foreign countries, shall find it thereby shown, that an industry in the United States is being or likely to be materially injured by reason of the importation into the United States of foreign merchandise, and shall find it thereby shown that the value as determined under the provisions of paragraphs (1), (2), or (3) of subdivision (a) of section 402 of this act, is not a certain basis for the assessment of the particular duties, he shall make such findings public, together with a description of the class or kind of merchandise to which they apply in such detail as he may deem necessary for the guidance of appraising officers; that in such cases and upon the proclamation by the President becoming effective the ad valorem duty or duty based in whole or in part upon the value of the imported article in the country of exportation shall thereafter be based upon the American selling price, as defined in subdivision (f) of section 402 of this act, of any similar competitive article manufactured or produced in the United States embraced within the class or kind of imported merchandise upon which the President has made public such a finding and proclamation.

That the ad valorem rate or rates of duty based upon such American selling price shall be the rate found upon said investigation by the President to be shown by the said differences in conditions of competition of trade in the markets of the United States necessary to equalize the differences so found in said conditions of competition in favor of either foreign manufacturers or producers, but no such rate shall be decreased or increased more than 50 per cent of the rate specified in Title 1 of this act upon such merchandise. Such rate or rates of duty shall become effective 30 days after the date of the said proclamation of the President, whereupon the duties so estimated and provided shall be levied, collected, and paid upon such merchandise in the manner herein provided when imported directly or otherwise from the country of origin into the United States.

Mr. TYDINGS. Mr. President, I would like to submit a few brief remarks against the flexible provisions of the pending tariff bill giving the President, as they do, a power which is lodged in the Congress under the Constitution. It has occurred to me in listening to the various arguments on both sides of the question that if the advocates of the flexible-tariff provision are right in their position their position could very well be enlarged and applied to all the other powers granted by the Constitution. Briefly, I would like to carry out that illustration to see where the Government would come if the policy now before us should be adopted.

Section 8 of Article I of the Constitution gives to Congress all of the power that it possesses. It has not one single, solitary power that is not either expressly or impliedly stated in section 8 of Article I. The President's powers are also stated in the Constitution, it being the thought of the framers that the Government would be operated in various departments—executive, legislative, and judicial.

The first power given to Congress is the power with which we now have to deal, and I wish to read it from the Constitution:

> The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

The thought is that we will give to the President the right to lay taxes by enabling him, if the bill is passed in its present form, either to increase or decrease the taxes on goods coming into the country. If that is wise, if it is sound, if it is farseeing, if it is right, let us see how such a policy would apply to some of the other powers granted to the Congress under the Constitution.

The second power given to Congress is "to borrow money on the credit of the United States." Therefore let us set up a board of financiers in the country, let us constitute a financial commission of the big bankers of the United States, and when they see fit to tell the President to borrow money, no law of this body will be required. It is just as sensible to have the financial experts advise the President when money should be borrowed as it is to have the tariff experts advise the President when tariff rates should be raised or lowered.

But let us go a step further. Let us take the next power, which is "to regulate commerce with foreign nations and among the several States, and with the Indian tribes." I will revert to that later. Let us pass on to the raising of an army. Congress now has the power "to raise and support armies."

Let us set up a board of generals who know what an army should be, who understand what poison gas, machine guns, and tanks are needed, what personnel and what training are required; and instead of Congress fixing the number and the kind of soldiers who shall be in the Army and providing the amount of equipment they shall have and the money to maintain the Army, let us have this military board advise the President and give him the right to raise an army of a million men overnight or decrease it to 5,000 men as he sees fit.

Let us go to the next power, "to provide and maintain a navy." Let us set up a board of admirals. They are experts in that particular field. They know how many guns are needed on battleships, how many destroyers are required, how many submarines are needed, how many airplanes must be in the air, what shells must be made of, the speed of ships, and the per-

sonnel that is to be placed upon them. Let us have this board of admirals say whether we shall build cruisers or not build cruisers, and whether we shall build battleships or sink battleships. Why not? It is just as sensible to have the naval experts advise the President and for the President to have the power to act as he sees fit on this subject as it is to have the tariff experts advise the President and have him exercise the power to tax, a power which Congress now exercises when it lays taxes on imports.

What is another of the powers given to Congress? "To provide for the punishment of counterfeiting the securities of the United States and current coin of the United States." There would no longer be need for us to have courts to deal with such matters. There would be no use to have a writ of habeas corpus or a bill of rights. Just give the power to the President, and if some one is guilty of counterfeiting and the President happens to be a despot, he can hang the man if he sees fit without reference to courts. We do not need any laws on the part of Congress. We would have no right to exercise that power.

Does the Senator from Utah [Mr. SMOOT] advocate that the President of the United States should have the power at his disposal to decrease and increase the number of battleships and cruisers and the number of sailors and officers in our Navy whenever he sees fit to take action in this matter and without reference to Congress? Of course he does not! Does the Senator from Utah advocate that the President of the United States should have the right either to make a larger army or a smaller one than we now have without reference to the will of Congress? Of course he does not! Why, then, is the Senator from Utah not willing that the power to lay taxes which the bill will take away from us and give to the President should not be retained in this body? If all the other examples I have set out are unwise or are wrong, why is this particular example right, the exception to the rule?

Suppose we had a presidential election and a President and the Members of the House and one-third of the Members of the Senate of one political party should be placed in power. Suppose they would write a new tariff bill just as it has been written here. Suppose the bill should be so iniquitous, so obnoxious, and so ill-advised that the people would rise in their righteous wrath and defeat the Members of the House who helped to frame it at the next election, and that a new House of Representatives would come to take the place of the old one. Could they get rid of the excessive rates if the Tariff Commission and the President had the power to fix them? Of course not, because even though the new House would pass a new tariff bill reducing the rate it would come over to this body, which could not be removed until four years after the act had become a law, and therefore the proposed change would die, although the people of the country would be in revolt against every provision it contained. The answer would be, "We have just had a new tariff act."

Notwithstanding a new House had been elected in protest—a House from the people, a House representing the people of the country more than this body directly represents the people of the country—notwithstanding that fact, we would not act on the Senate side of the Capitol. "There will be no tariff legislation at this session of Congress" would be the slogan. "If you have a case needing change, go down to the Tariff Commission and through the Tariff Commission up to the President and there you will get the relief which you seek. We have surrendered to the President the power which was once in the hands of those directly elected by the people."

Mr. President, if we needed more to show that the purpose back of this measure is simply expediency and not a philosophy of government, not a political belief, not a strong conviction, it is the fact that no other power now granted to the Congress would we dare delegate to the President as it is proposed to delegate power to him under this provision. We surrender the right to collect taxes; we say, in effect, Congress never ought to collect them. The President can change the schedule of tax levies five minutes after he has signed his name to the bill if this flexible provision remains in it. We might as well have passed no bill, because the voice of the people is then stilled as far as Congress is concerned. The only man who can reduce or change a schedule is the President of the United States. We may have had good men for President. They may have been well equipped. They may in the past have had fine characters. But we should remember that good fortune does not always bring the best-equipped men to public office. There have been brought to public office in the past men who have lost their heads upon the guillotine, men who have been dragged from the throne of power by an outraged people, men who have been driven into exile shortly after they had been elected. But in this country we say we are always going to have such a President of the United States that the power to tax by him will not be abused.

Let us turn the picture which I have just painted around and look at it from the other side. Suppose the flexible-tariff provision had been in force two years previous to 1922 or, to use an ill-advised expression, suppose a "radical" President, one who was not in favor of a tariff, was seated in the White House, would Senators on the other side of the Chamber be in favor of keeping the flexible provision in the tariff law under those conditions? Of course not. No voice louder than that of the Senator from Utah would be raised in this body in favor of repealing the provision. He would say that it would be an abuse of power if it should be exercised by one not in line with the philosophy of this particular bill; but so long as one in line with the philosophy of the bill has the exercise of that power it is right, it is constitutional, and so forth.

I want to say to Senators on the other side of the Chamber who wish to see this bill enacted into law that if this provision shall be retained in it there will be more than one Senator on the other side who will live to regret it, who will hang his head in shame when he sees the result that will flow from the abuse of this power placed in the hands of a President without the discretion and the balance to use it properly. We have previously had Presidents who thought in terms of liberty, not in terms of money; and they have been among the greatest in this Republic, though they would not be adapted, perhaps, to the complex business conditions which now exist throughout the Nation. We may again have a President like that, and, so far as opinion is concerned, he might be on the side opposite to that of those Senators who now favor the measure. Would they want him to exercise the power granted by this flexible tariff provision? I am not arguing the expediency of the matter. I have simply presented the picture to show that the President may not always be relied upon to exercise the power as Senators now contemplate it will be exercised; and if we shall adopt this policy in one case, if it is right in one case, should it not be adopted in all?

There is no analogy between the Tariff Commission and the power proposed to be given to the President on the one hand and the power heretofore given to the Interstate Commerce Commission. The Interstate Commerce Commission is the creature and arm of Congress; it belongs to Congress. The President has not a thing to do with it except to appoint its members, by and with the advice and consent of this body. The members of the Tariff Commission, however, under the flexible provisions of the tariff law, are nothing more than presidential clerks charged with the duty of digging up such information as the President may require. He may, in effect, discharge or promote them or disregard their advice whenever he wishes to do so. We have not given to the President a legislative power in the Interstate Commerce Commission act, but we propose to give to the President a legislative power in the flexible provision of the pending tariff bill.

Mr. President, the first break in the dam is always a little one, but the flood is frequently a catastrophe. Nations sometimes make their present history by a small event which happened 50 years previously. In 1922 we departed from a distinct philosophy of government. Our country was prosperous; it had obtained preeminence in the world in the field of commerce. There are always persons who want to tinker with the carburetor when the engine is running well. Such men were present in this body and in the other House in 1922. We had exercised the power to enact tariff legislation before 1922 without the flexible tariff provision, and, so far as I know, it did not result in great danger to the Nation.

The Congress had taken care of tariff matters for more than a century previous to 1922 without any injury to the Republic. We then turned our back on that policy, under which the fixing of tariff duties was a duty devolving absolutely upon us, and not upon the President of the United States.

Let us turn over to another section of the Constitution—for that is what we are really debating—the policy and the power of the Congress. What are the duties of the President? The Constitution provides what shall be the qualifications of the President, and then goes on to say that he is to be the Commander in Chief of the Army and the Navy and Militia, that he may secure the opinion of the officials who serve under him on any subject he may wish, and that he shall have the power, by and with the advice and consent of the Senate, to make treaties, and so on; that he shall have the power to fill vacancies, and shall from time to time give to Congress information on the state of the Union. The Constitution says that the President shall be the executive—not the legislative—head of the Government.

What do the Senator from Utah [Mr. SMOOT] and the Senator from Connecticut [Mr. BINGHAM], or the other advocates of

this measure, care that men marched through the snows of Valley Forge for the right to express their will through their representatives in our Congress? What does the Senator from Utah care that men died through four years of civil war to preserve this Constitution written as it was and in all that its spirit and letter imply? This is the break in the dike; we have been tinkering around this very weak spot for a long while, and now we are going to hit it, to open the crack and destroy the legislative branch of our Government. Once open it, and remember you will be eventually on that side where the water escapes down into the valley, where the catastrophe is impending, and to none will it come quicker than to the business interests of the country, once the people find that they can not through their representatives change the law of the land.

Men have smiled at such remarks as I am making through all the centuries; there have always been men to scoff. There have always been those who could not see that power wisely used to-day may not be so wisely used to-morrow.

I suggest that instead of writing into the pending bill the flexible tariff provision it would be a good idea to write into it a repeal of the thirteenth amendment, which I should like to read, because it is particularly apropos at this point. The thirteenth amendment as it now stands reads in this fashion:

> Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

The minute, Mr. President, you take from the people the right of their representatives to levy taxes and put that right in the hands of a man who can practically perpetuate himself in office for eight years, you repeal the thirteenth amendment in effect, because we are all economic slaves, and the only difference is that we have a little hope in eight years of removing our bonds, where under most forms of slavery that hope can not be entertained.

There is an amusing side to this controversy which I think is worthy of mention. I remember in the campaign of 1924, when the then Senator from Wisconsin, the senior La Follette, was a candidate, when Republican orators were going all about the West saying that La Follette was attempting to tear the Constitution from its base; that he was attempting to tear down the institutions of Government because he advocated some amendments to the Constitution. It is surprising that those who applauded on that occasion should sit in the Senate some years afterwards and see the son of that same Senator standing here struggling to maintain the Constitution in all of its letter and spirit and vigor, while those who then opposed his father are trying to tear it down in the most dangerous fashion that has ever been attempted.

Mr. President, if this amendment shall be adopted, if it is right to take away the taxing power from the representatives of the people and give it to the President, then let us give all other powers to the President. Let the Navy be regulated by a commission of admirals; let the President have the power to decrease it or increase it at will; let the Army be regulated by a commission of generals and give the President authority to enlarge it or decrease it at will. If it is right in one instance, it is right in every instance, and if it is wrong, no argument can make it right. Certainly if those who favor the flexible-tariff provision are not willing to concede that the President be given other similar powers, then their case is none too strong. To give part only of such power is wrong; it may be less wrong, but it is wrong just the same.

The adoption of this amendment will mean that Congress has formally said to the President of the United States, "Henceforth you, not the representatives of the people, shall lay taxes in this country."

Mr. McKELLAR. Mr. President, I sometimes wonder what we are coming to. I sometimes think we have reached the point where men and women in this country have little respect for anything. One would think that the officials of this Government would concern themselves somewhat about the Constitution under which they are officials; but we find that from the highest to the lowest they pay very little attention to it.

I quote just a word from the Constitution:

> He—

Meaning the President—

> shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient.

And yet we find the remarkable spectacle, within the last day or two—I believe on Tuesday, to be exact—of the President of the United States making a recommendation about legislation, and paying no more attention to the Congress than if it did not exist. He made no recommendation to the Congress, but he joined in the newspaper debate; and I find another remarkable thing about that communication, Mr. President: Although this communication was made on September 24, two days ago, no Republican Senator has even put it in the RECORD. It is not officially before us, and I am going to put it in the RECORD now. Some of our Republican friends, I believe, have repudiated it. At any rate, some of them have denied the propriety of the President's saying anything at all.

For some reason no Republican in this body has offered the President's argument to the Congress of the United States. I am going to offer it, and I ask here that it may be inserted in the RECORD as a part of my remarks.

Mr. CARAWAY. Does the Senator say "with apology"?

Mr. McKELLAR. Oh, no; with some criticism that is to come from it; not apology.

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

The matter referred to is as follows:

[From the Washington Post, Wednesday, September 25, 1929]

"FLEXIBILITY GLEANS INJUSTICE FROM TARIFF," HOOVER SAYS

President Hoover's statement for retention of the flexible provisions of the tariff law follows:

"In my message to Congress of April 16 at the opening of the special session, I gave my views as to broad principles which I felt were of importance in tariff legislation. One of the subjects I then presented was the importance of maintaining the flexible tariff. That principle was advocated over a long term of years by members of all political parties, and it was enacted in the 1922 tariff law. I advocated it at that time and since as a necessity in protection of public interest.

"The essential of the flexible tariff is that with respect to a particular commodity, after exhaustive determination of the facts as to differences of cost of production at home and abroad by a tariff commission, comprised of one-half of its members from each political party, whose selection is approved by the Senate, then the President should upon recommendation of the commission, promulgate changes in the tariff on that commodity not to exceed 50 per cent of the rates fixed by Congress.

AUTHORITY IS REFUSED

"Under these provisions the President has no authority to initiate any changes in the tariff. No power rests on the Executive until after recommendations by the commission. Any change must arise from application directly to the commission, and his authority in the matter becomes a simple act of proclamation of the recommendations of the commission, or, on the other hand, a refusal to issue such a proclamation, amounting to a veto of the conclusions of the commission. In no sense, therefore, can it be claimed that the President can alter the tariff at will, or that despotic power is conferred upon the Executive. It has been declared a constitutional procedure by the Supreme Court.

"Reasons for the continued incorporation of such provisions are even more cogent to-day than ever before. No tariff bill ever enacted has been or ever will be perfect. It will contain injustices. It is beyond human mind to deal with all of the facts surrounding several thousand commodities under the necessary conditions of legislation and not to make some mistakes and create some injustices. It could not be otherwise.

PERFECT TARIFF BILL

"Furthermore, if a perfect tariff bill was enacted the rapidity of our changing economic conditions and the constant shifting of our relations with economic life abroad would render some items in such an act imperfect in some particular within a year.

"It is proved by a half century of experience that the tariff can not be reviewed by Congress more than once in seven or eight years. It is only a destruction of the principle of the flexible tariff to provide that the Tariff Commission's recommendations should be made to Congress for action instead of the Executive. Any person of experience in tariff legislation in the last half century knows perfectly well that Congress can not reopen single items of the tariff without importing discussion all along the line, without the constant unsettlement of business and the importation of contentions and factious questions to the destruction of other important duties by Congress. Congress has literally hundreds of times in the past refused to entertain any amendment to a tariff except in periods of general revision.

CUMBERSOME PROVISIONS

"Although the provisions of the 1922 tariff act, as I have stated in the message, proved to be cumbersome in the method of determining costs of production and can be improved, yet despite this the agricultural industry especially received great benefits through this provision, a notable instance of which was the protection of the dairy industry. That industry would be in a sad plight to-day if it had not been for the increased duties given under the flexible tariff.

"The flexible provision is one of the most progressive steps taken in tariff making in all our history. It is entirely wrong that there shall be no remedy to isolated cases of injustice that may arise through the failure to adequately protect certain industries or to destroy the

opportunity to revise duties which may prove higher than necessary to protect some industries and therefore become onerous upon the public to force such a situation upon the public for such long periods is, in my view, economically wrong and is prejudicial to public interest.

BACKED BY FARMERS

"I am informed the principle is supported by the most important of the farm organizations. It is supported by our leading manufacturing organizations. It is supported by labor and consumers organizations. It has never hitherto been made a political issue. In the last campaign some important Democratic leaders even advocated the increase of powers to the Tariff Commission so as to practically extinguish congressional action. I do not support such a plan.

"I have no hesitation in saying that I regard it as of the utmost importance in justice to the public, as a protection for the sound progress in our economic system, and for the future protection of our farmers and our industries and consumers that the flexible tariff, through recommendation of the Tariff Commission to the Executive, should be maintained."

Mr. McKELLAR. I desire to read from this remarkable document; and in view of what I am going to say I think the Senate will consider that it is one of the most remarkable documents ever written.

The President says in the beginning:

In my message to Congress of April 16 at the opening of the special session I gave my views as to broad principles which I felt were of importance in tariff legislation. One of the subjects I then presented was the importance of maintaining the flexible tariff. That principle was advocated over a long term of years by members of all political parties, and it was enacted in the 1922 tariff law. I advocated it at that time and since as a necessity in protection of public interest.

I read another excerpt:

Reasons for the continued incorporation of such provisions are even more cogent to-day than ever before.

And, leaving out a part of it, which I have already put in the RECORD, I read another excerpt:

Yet, despite this the agricultural industry especially received great benefits through this provision, a notable instance of which was the protection of the dairy industry. That industry would be in a sad plight to-day—

Says the President—

if it had not been for the increased duties given under the flexible tariff.

The flexible provision is one of the most progressive steps taken in tariff making in all our history. It is entirely wrong that there shall be no remedy to isolated cases of injustice that may arise through the failure to adequately protect certain industries or to destroy the opportunity to revise duties which may prove higher than necessary to protect some industries—

And so forth.

The President winds up in this way:

I have no hesitation in saying that I regard it as of the utmost importance in justice to the public, as a protection for the sound progress in our economic system, and for the future protection of our farmers and our industries and consumers, that the flexible tariff, through recommendation of the Tariff Commission to the Executive, should be maintained.

The first witness that I introduce against that argument of the President is the President himself.

On the 15th day of last October, 1928, when Mr. Hoover was a candidate for the Presidency, here is what he said:

The Tariff Commission is a most valuable arm of the Government. It can be strengthened and made more useful in several ways—

But listen to this:

but the American people will never consent to delegating authority over the tariff to any commission, whether nonpartisan or bipartisan.

Mr. Hoover was a candidate then. He was asking for the favor of the people; and then it was that he came out on the side of the people and on the side of the Constitution, and said that the American people would never agree to the delegation to any commission, bipartisan or nonpartisan, of authority to perform the duties of the Congress. He was right then; and yet 12 months have not expired when he comes and repudiates that, and asks the Congress to give him such power.

Mr. President, if Senators will follow me for a few moments I think we can put our fingers on why this power is asked; but before we do that I want to introduce another witness, in fact, a body of witnesses. I want to introduce the Finance Committee of the Senate, presided over by my friend the Senator from Utah [Mr. SMOOT]. Last Saturday, at my request, the senior Senator from Utah presented the list of 37 articles, the duty on which had been either decreased or increased by the President and the Tariff Commission; and I ask that it be inserted in the RECORD as a part of my remarks, without further ado.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McKELLAR. I have made an analysis of these things, and I want to tell you what that analysis shows. I say that the Tariff Commission and the President, acting in this capacity, have been absolutely repudiated by the Finance Committee. Why do I say it? Because of the 37 articles that have been legislated about by the President and the Tariff Commission, 29 have been changed by the Senate Finance Committee as they appear in this bill.

Think of it! Here the President says that we must have a scientific body to fix tariff rates. The Senator from Utah says we must have this scientific body; and when the Finance Committee come to legislate about the matter they overturn this scientific commission 29 out of the 37 times.

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

Mr. McKELLAR. Yes.

Mr. SMOOT. Is the Senator opposed to the increases in agricultural items that constitute the 29?

Mr. McKELLAR. Mr. President, they do not constitute the 29. I am going to make it so clear that even the Senator from Utah can see how the committee has repudiated the Tariff Commission.

Mr. CARAWAY. The Senator will never do that.

Mr. McKELLAR. Well, I believe I can.

The first item is wheat. It remains the same.

Flour and products of flour remain the same.

Mill feeds, bran, and so forth, remain the same; sodium nitrite, the same; barium dioxide, the same.

And then I come to this item—let me get a little time to pronounce it—diethylbarbituric acid, commonly known as veronal, changed.

Oxalic acid, the same; potassium chlorate, changed; bobwhite quail, changed, put on the free list; taximeters, changed; men's sewed straw hats, changed; butter, changed; print rollers, changed; paintbrush handles, changed; wood alcohol, changed; gold leaf, the same except that there is a small ad valorem part; pig iron, changed; Swiss cheese, changed; cresylic acid, changed; phenol, changed; crude magnesite, changed; caustic calcined magnesite, changed; cherries, changed; rag rugs, changed; barium carbonate, precipitated, the same; sodium silicofluoride, changed; fluorspar, the same; potassium permanganate, the same; onions, changed, I do not blame them for changing onions. [Laughter.] Plate glass, changed; peanuts, changed; eggs, changed; flaxseed, changed; fresh milk, changed; cream, changed; window glass, changed; linseed or flaxseed oil, changed.

Mr. President, if the work of the Tariff Commission is of the perfect character that the President talks about, if it is of the perfect character that the Senator from Utah and other Senators on the other side talk about, why do they not stand by it? Why do they come in and repudiate it twenty-nine times out of the thirty-seven?

(The matter referred to above is as follows:)

UNITED STATES TARIFF COMMISSION,
OFFICE OF THE SECRETARY,
Washington.

List of subjects with respect to which the President has proclaimed changes in duties, under the provisions of section 315 of the tariff act of 1922

Article	Change in duty	Date of proclamation	Effective date of change
Wheat	Increased from 30 to 42 cents per bushel, 60 pounds.	Mar. 7, 1924	Apr. 6, 1924
Flour, semolina, etc	Increased from 78 cents to $1.04 per 100 pounds.		
Mill feeds, bran, etc	Decreased from 15 to 7½ per cent ad valorem.		
Sodium nitrite	Increased from 3 to 4½ cents per pound.	May 6, 1924	June 5, 1924
Barium dioxide	Increased from 4 to 6 cents per pound.	May 19, 1924	June 18, 1924
Diethylbarbituric acid (veronal).	Increased—duty (25 per cent ad valorem) transferred to American selling price.	Nov. 14, 1924	Nov. 29, 1924
Oxalic acid	Increased from 4 to 6 cents per pound.	Dec. 29, 1924	Jan. 28, 1925
Potassium chlorate	Increased from 1½ to 2¼ cents per pound	Apr. 11, 1925	May 11, 1925
Bobwhite quail	Decreased from 50 to 25 cents each (valued at $5 or less each).	Oct. 3, 1925	Nov. 2, 1925
Taximeters	Increased from $3 each plus 45 per cent ad valorem on foreign value, to $3 each plus 27.1 per cent on American selling price.	Dec. 12, 1925	Dec. 27, 1925
Men's sewed straw hats	Increased from 60 per cent ad valorem to 88 per cent ad valorem on hats valued at $9.50 or less per dozen.	Feb. 12, 1926	Mar. 14, 1926

List of subjects with respect to which the President has proclaimed changes in duties, etc.—Continued

Article	Change in duty	Date of proclamation	Effective date of change
Butter	Increased from 8 to 12 cents per pound.	Mar. 6, 1926	Apr. 5, 1926
Print rollers	Increased from 60 per cent ad valorem to 72 per cent ad valorem.	June 21, 1926	July 21, 1926
Paintbrush handles	Decreased from 33⅓ per cent ad valorem to 16⅔ per cent ad valorem.	Oct. 14, 1926	Nov. 13, 1926
Methanol (methyl or wood alcohol).	Increased from 12 to 18 cents a gallon.	Nov. 27, 1926	Dec. 27, 1926
Gold leaf	Increased from 55 to 82½ cents per 100 on leaves not exceeding in size 3⅜ by 3⅜ inches and on larger leaves in proportion.	Feb. 23, 1927	Mar. 25, 1927
Pig iron	Increased from 75 cents to $1.12½ per ton.	do	Do.
Emmenthaler type Swiss cheese.	Increased from 5 cents per pound, but not less than 25 per cent ad valorem, to 7½ cents per pound, but not less than 37½ per cent ad valorem.	June 8, 1927	July 8, 1927
Cresylic acid	Decreased from 40 per cent ad valorem and 7 cents per pound based on American selling price to 20 per cent ad valorem and 3½ cents per pound based on American selling price.	July 20, 1927	Aug. 19, 1927
Phenol	do	Oct. 31, 1927	Nov. 30, 1927
Crude magnesite	Increased from 5/16 of 1 cent per pound to 15/32 of 1 cent per pound.	Nov. 10, 1927	Dec. 10, 1927
Caustic calcined magnesite.	Increased from ⅝ of 1 cent per pound to 19/16 of 1 cent per pound.		
Cherries, sulphured or in brine, stemmed or pitted.	Increased from 2 to 3 cents per pound.	Dec. 3, 1927	Jan. 2, 1928
Rag rugs, cotton (hit-and-miss type).	Increased—duty (35 per cent ad valorem) transferred to American selling price.	Feb. 13, 1928	Feb. 28, 1928
Barium carbonate, precipitated.	Increased from 1 to 1½ cents per pound.	Mar. 26, 1928	Apr. 25, 1928
Sodium silicofluoride	Increased—duty (25 per cent ad valorem) transferred to American selling price.	Aug. 31, 1928	Sept. 15, 1928
Fluorspar	Increased from $5.60 per ton to $8.40 per ton on fluorspar containing not more than 93 per cent of calcium fluoride.	Oct. 17, 1928	Nov. 16, 1928
Potassium permanganate.	Increased from 4 to 6 cents per pound.	Nov. 16, 1928	Dec. 16, 1928
Onions	Increased from 1 to 1½ cents per pound.	Dec. 22, 1928	Jan. 21, 1929
Cast polished plate glass, finished or unfinished, and unsilvered.	Increased from 12½ to 16 cents per square foot on sizes not exceeding 384 square inches; from 15 to 19 cents per square foot on sizes above 384 square inches and not exceeding 720 square inches; and from 17½ to 22 cents per square foot on sizes above 720 square inches.	Jan. 17, 1929	Feb. 16, 1929
Peanuts, not shelled and shelled.	Increased from 3 to 4¼ cents per pound on peanuts, not shelled; from 4 to 6 cents per pound on peanuts, shelled.	Jan. 19, 1929	Feb. 18, 1929
Whole eggs, egg yolk, and egg albumen, frozen or otherwise prepared or preserved, and not specially provided for.	Increased from 6 to 7½ cents per pound.	Feb. 20, 1929	Mar. 22, 1929
Flaxseed	Increased from 40 to 56 cents per bushel of 56 pounds.	May 14, 1929	June 13, 1929
Milk, fresh	Increased from 2½ to 3¾ cents per gallon.	do	Do.
Cream	Increased from 20 to 30 cents per gallon.		
Window glass (cylinder, crown, and sheet glass, unpolished).	Increased from 1¼ to 1⅞ cents per pound on sizes not exceeding 150 square inches; from 1⅜ to 2 1/16 cents per pound on sizes above 150 square inches, not exceeding 384 square inches; from 1⅝ to 2 7/16 cents per pound on sizes above 384 square inches, not exceeding 720 square inches; from 1¾ to 2⅝ cents per pound on sizes above 720 square inches, not exceeding 864 square inches; from 2 to 3 cents per pound on sizes above 864 square inches, not exceeding 1,200 square inches; from 2¼ to 3⅜ cents per pound on sizes above 1,200 square inches, not exceeding 2,400 square inches; and from 2½ to 3¾ cents per pound on sizes above 2,400 square inches.	May 14, 1929	June 13, 1929
Linseed or flaxseed oil	Increased from 3.3 to 3.7 cents per pound.	June 25, 1929	July 25, 1929

REPORTS TO PRESIDENT UNDER SECTION 315

Schedules	Investigations completed and sent to President	Changes in duty by presidential proclamation	Commodities affected by proclamations of President: Increases	Commodities affected by proclamations of President: Decreases
1. Chemicals	14	12	10—sodium nitrite, barium dioxide, diethylbarbituric acid, oxalic acid, potassium chlorate, methanol, barium carbonate, sodium silicofluoride, potassium permanganate, linseed oil.	2—cresylic acid, phenol.
2. Earths, earthenware, and glassware.	5	4	4—crude magnesite and caustic calcined magnesite, fluorspar, cast polished plate glass, window glass.	
3. Metals and manufactures.	4	4	4—taximeters, print rollers, gold leaf, pig iron.	
4. Wood and manufactures of.	2	1		1—paintbrush handles.
5. Sugar, molasses, etc.	[1] 2	0		
6. Tobacco and manufactures.	0	0		
7. Agricultural products.	14	13	11—wheat, flour, butter, Swiss cheese, cherries, onions, peanuts, eggs and egg products, flaxseed, milk, cream.	2—mill feeds, bobwhite quail
8. Spirits, wines, etc.	0	0		
9. Cotton manufactures.	[2] 3	0		
10. Flax, hemp, jute, etc.	1	1	1—rag rugs	
11. Wool and manufactures of.	0	0		
12. Silk and silk goods	0	0		
13. Paper and books	[2] 1	0		
14. Sundries	1	1	1—men's sewed straw hats.	

[1] Statement issued by President retaining present duty on sugar.
[2] Statements issued by President retaining present duties on gloves made of cotton warp-knit fabric (and cotton warp-knit fabric) (Schedule 9, cotton manufactures); and on wall pockets (Schedule 13, paper and books).

Mr. McKELLAR. Senators, did you ever think what this commission costs? The Tariff Commission costs the American people very nearly a million dollars a year. It has been in existence over seven years; and if this bill goes through as the committee has reported it the commission will have made eight changes in the tariff in seven years—eight changes in seven years! It costs the American people nearly a million dollars a change. It costs them that much in taxes to make these changes.

I can not imagine any greater repudiation and absolute annihilation of the work of this commission than what has been done by the Finance Committee. They have destroyed it here. They have paid no attention to it. They have told the American people and the Congress that it is without value, and they have had to change its rates, and they have brought the bill here with its rates changed; and yet they want to keep the commission, and they want to give the President power to fix rates that they themselves will not uphold! How in the world can they expect the Congress to uphold rates made by the President and this commission when they will not uphold them themselves?

Mr. REED. Mr. President, will the Senator yield for a question?

Mr. McKELLAR. I yield.

Mr. REED. Does the Senator think it is as much an exercise of legislative power to put on a protective duty as it is to put on a complete embargo?

Mr. McKELLAR. That is one of the Senator's great hypothetical questions, and I think it is immaterial. If the Senator will excuse me, I would rather go on with the practical part. I am giving to the Senate and the country the practical operation of this so-called Tariff Commission approved by the President.

Mr. REED. Then the Senator will not answer my question?

Mr. McKELLAR. I think it is not necessary.

Mr. REED. It is a very practical question, and I had hoped that the Senator would answer.

Mr. McKELLAR. I am very sorry I differ with the Senator about its being practical.

Mr. President, I come to another proposition. I find some very peculiar things. I now address the Senator from Utah [Mr. SMOOT]. I have found upon an analysis of the action of the commission in the cases of the 37 articles, the rates of which have been changed by the Tariff Commission, the most remarkable situation I ever dreamed of, and I do not believe he ever dreamed of such a situation. I find five articles on which the tariff was reduced.

Why were the rates reduced on those five articles? In the interest of the American consumer, says the President. In the speech of the Senator from Utah, and of other Senators on the other side, it has been said that they were reduced in the interest of the consumer. Let us see what happened.

The first one is live bobwhite quail. That is a mighty question for a million-dollar tariff commission to be fooling with. Do Senators know what that means? It means that there are certain game wardens in the United States who want to import Mexican quail. Under the old law, they came in free of duty. In 1922 a rate of 50 cents apiece was put on them. President Coolidge and the Tariff Commission reduced that to 25 cents apiece, and the Finance Committee have in their report wiped the whole thing out, and put them on the free list.

Does that affect anybody? No; it affects no one except a few game wardens. Those quail ought to be on the free list, of course, and the committee is right in putting them on the free list. But the idea of a million-dollar-a-year commission bothering about bobwhite! Only $10,000 is involved in the value of the quail. Yet for four months the Tariff Commission and the President were fooling about the question of bobwhite quail.

I come to the next one, cresylic acid. The rate on cresylic acid was decreased, and the price went up. The price did not go down at all. It just had a way of doing exactly what the President's commission thought it would not. It just did the other thing, it went up.

The next thing was mill feeds and bran. The rates were reduced, and those articles went up in price.

The next thing to which I want to refer was the most momentous piece of work any commission ever did. There ought to be a monument erected to this commission. The commission for several months discussed the question of paintbrush handles. Why did they do that? They took several months to consider that matter because an English concern over in Canada had a factory in New Jersey, and they wanted to manufacture their handles in Canada and sell them on the same plane on which they sold them in New Jersey. Very little money was involved. It was just one concern. But that one concern felt as if it could get something at the hands of the Government, and perhaps it did; I do not know. The commission say they have not any information as to prices, so I can not pass on the question of the prices. I do not know about the prices of paintbrush handles, but according to outside information prices of those articles went up instead of down.

Now, let me call attention to the other decrease. The rate on phenol was decreased, and the price of phenol went up. The price of cresylic acid went up, and they had to put another tariff on it to see if they could not better it. I do not remember what the other decrease was.

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

Mr. McKELLAR. I yield.

Mr. SACKETT. The Senator has studied these matters. I would like to ask if the Tariff Commission has been able to find the cost of production at home and abroad of bobwhite quail?

Mr. McKELLAR. That is a very interesting matter, and I wish I had time to go into it. Talk about a fact-finding commission. How did they find the difference between the cost of production of a quail in Mexico and one across the border line, the Rio Grande, in Texas? They just admitted they could not do it. But as a substitute for it they said this, that they paid a trapper a few cents more in Texas than they paid one in Mexico. That was the way they found the difference.

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

Mr. McKELLAR. In just one moment. That brings to my mind a lecture I attended when I was a member of a law class. Our professor lectured on de minimis, which in English means "trifles." He said the law did not care about trifles, and I want to say that from my analysis these five articles worked on for months by the Tariff Commission are simply and purely trifles, ridiculous trifles. The idea of a great Government like ours expending a million dollars a year to lower the duties on cresylic acid and phenol and bobwhite quail and paintbrush handles.

My heavens! What are we coming to? Are we just furnishing salaries to these gentlemen, or are we taking our positions seriously? Yet that is the commission which the President of the United States, in an address to the American people, but not to the Congress, says it is absolutely necessary to the welfare and proper running of this Government that we should maintain, a commission dealing with trifles of this kind. It is ridiculous.

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

Mr. McKELLAR. I yield.

Mr. BRATTON. Will the Senator tell us how long the Tariff Commission devoted itself to the question of whether the duty on quail should be reduced or not?

Mr. McKELLAR. Four months.

Mr. BRATTON. How long did the paintbrush-handle question occupy their attention?

Mr. McKELLAR. That was a very much more serious question. I would be afraid to state the exact time they delved into the paintbrush-handle question, the difference in the cost of producing paintbrush handles over in Canada and the cost here in the United States. Oh, what a weighty question that was for them to determine!

Mr. BRATTON. The Senator from Utah [Mr. SMOOT], the chairman of the Committee on Finance, said yesterday that the Tariff Commission would be glad to aid the Senate in arriving at a correct conclusion as to any pertinent question. I wonder if he would get us an estimate of the cost incurred in investigating the reduction of the duty on bobwhite quail, as well as the cost of investigating the reduction of the duty on paintbrush handles.

Mr. McKELLAR. Mr. President, I want to say that I have examined very carefully and made a request of the commission myself, and they very frankly, in some reports which I will hand to the Senator from New Mexico if he would like to see them, give the exact facts. They have written a book about paintbrush handles. They have written a book about bobwhite quail. They have written a book about cresylic acid. My heavens, if the Senator will just come over to my desk——

Mr. BRATTON. I do not want to read them.

Mr. McKELLAR. He can read some of the books this great Tariff Commission, costing the American people a million dollars a year, in round figures, has written, doing absolutely nothing, as I propose to demonstrate in a few moments.

Mr. BRATTON. It would be interesting to know what the chairman of the committee has to say as to the cost of making these two tremendously important inquiries.

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

Mr. McKELLAR. I yield to the Senator from Arkansas for a question.

Mr. CARAWAY. I was going to ask the Senator if he could tell us when the commission was going to pass on the request for a reduction in the tariff on moustache cups and buggy whips?

Mr. McKELLAR. If ever two great questions like the request for reduction in duty on moustache cups and buggy whips come before the commission, the Senator need not expect a report in less than five years, and they will probably publish three volumes about them.

Mr. President, I have talked about the five things on which the Tariff Commission reduced the rate. Their action in making those five reductions made no more difference to the American people or to any part of the American people than a decision as to whether a drop of water fell in the Mediterranean Sea yesterday or the day before. Yet we are seriously debating continuing a commission of that sort for the purpose that has been mentioned. I have concluded what I had to say about the five products the rates on which were reduced downward.

Now I come to the revision of the tariff upward, and I was very much interested in what the commission did about that. I will say to my friend the Senator from Utah [Mr. SMOOT] that after I got his statement as to the 37 articles I wrote this letter on September 24:

UNITED STATES TARIFF COMMISSION,
Washington, D. C.

DEAR SIRS: Will you kindly give me the prices on the various 37 articles changed by the President, under section 315 of the tariff act of 1922, so that I may have the prices in America on the articles before the change in each case and for, say, six months after the change in each case? My purpose is to secure the changes in price of the various

articles as brought about by changes in the tariff by the commission and the President.

Also, I would like to have figures showing the changes in importations. To illustrate what I mean, I would like to know how many bobwhite quail were imported prior to the reduction in tariff and the year following, and so on in each case.

The Tariff Commission treated me very courteously about that. I think the very day I wrote that letter they brought me in pencil memoranda for the most part the information I asked for as to prices, and after a consideration of those prices, how any Senator can vote to continue the flexible provisions of the tariff under this system is beyond my understanding, and I want to give the facts to the Senate.

The first of these is wheat. I have a list of the prices which I am going to put in the RECORD at the close of my speech. The rate on wheat was changed in April, 1924, when it was selling at $1.26. It hovered around that figure, sometimes above and sometimes a little below, and in the latter part of 1928 it was $1.22. That is 4 cents below what it was when they raised the tariff to 26 cents. Why did they put on that additional 12 cents? It was to raise the price of wheat. Did it do it? On the contrary, it lowered the price of wheat.

Flour was exactly the same. Flour was then selling at $7.18 a barrel. In 1929 it was selling at $6.36 a barrel. In other words, the tariff was raised but the price was lowered. Here are two of the commodities on which the tariff was increased and in both cases the prices went down.

I come next to sodium nitrate. Everybody knows what that is and how important it is to the country. The country could not run without sodium nitrate. The Tariff Commission raised the tariff on sodium nitrate. It was selling at $8.50 then and it is selling at $7.25 now. It went down instead of up. No wonder the Finance Committee, presided over by the able Senator from Utah [Mr. SMOOT], changed the ruling of the Tariff Commission. Why? It has not done any good. It has not raised any prices. There are two notable exceptions in which the price was not materially raised, but was maintained, and that means something, I suppose.

The next one is barium dioxide. It was selling for 17 cents before the tariff was raised and it is selling now for 12 cents.

Mr. SMOOT. That does not hurt anybody.

Mr. McKELLAR. The Senator from Utah says that does not hurt anybody. Does the Senator mean to say to the Senate and to the people of the country that he is going to keep an $8,000,000 corporation in existence just because it does not hurt anybody? Does he mean to say he is willing to turn over the powers of Congress to the President of the United States contrary to the Constitution simply because he thinks it does not hurt anybody?

Mr. SMOOT. The items the Senator is reading show that the price, notwithstanding the increase that was made in tariff rate, is lower than it ever was.

Mr. McKELLAR. Surely. I am just showing that so far as it helps the people of the country the work of the Tariff Commission for the last seven years has been absolutely nil. The country would have been just as well off and prices would have been just as good if there never had been a tariff commission and we had not paid $8,000,000 of the people's money to keep it up.

Mr. SMOOT. The Senator must admit, however, that the raises no doubt were made, and in making them the importations decreased, and then through competition in the United States the prices have been decreased to the consumer.

Mr. McKELLAR. Oh, yes; and the price has been decreased from the very beginning. It has done the people of the country no good. Here is what I am trying to show: I am waiving the constitutional question. I am just talking about the work of the commission. I am showing that it is absolutely valueless. It is a barnacle on the body politic and ought to be abolished, because it has done no good.

Here is an item on which the Senator gets the raise. I found an article on which he gets a raise—oxalic acid. When the President raised the rate on oxalic acid after months of study, after writing a book about it, what resulted? It was then selling at 10.75 and it is now selling at 11. My heavens, what a saving to the American people! The Senator ought to be able to elect two Presidents on a saving like that. It has been increased one-quarter of a cent. Sometimes it is a little less and sometimes a little more, but it remains at about the same figure all the time.

I next come to one of the Senator's favorites—diethylbarbituric acid. The President and his commission in November, 1924, raised the rate on that acid so as to protect the industry. What happened to it? Did it protect it? No; it did not. It was selling at $10 a pound and it is now selling at $4.60 a pound. It has been going down ever since.

I come next to potassium chlorate, which was selling at 8.5 cents a pound when the President exercised his power, and which is now selling at 0.75 cent a pound.

I next come to straw hats. The rate was raised on straw hats, I understand, for the benefit of some of the straw-hat makers in the State of my friend from Maryland [Mr. TYDINGS]. Perhaps my friend from Maryland can tell what happened to straw hats. The Tariff Commission say they have no prices on straw hats and they do not know whether they went up after this study and the writing of this book about straw hats. I do not know whether they went up generally or went down. I think my straw hats have cost a little bit more each year, so we will have to take the American selling price.

I next come to taximeters. The tariff on taximeters is a very interesting thing. There are two companies in this country—that is, there were two companies in this country, if they have not gotten together before this, but I imagine they are now together. Taximeters manufactured by the two American companies sell in the United States for $125 to $150. Does anyone know what is in them? One of the principal ingredients is aluminum. One of the concerns making taximeters is located in Pittsburgh. No wonder they raised the tariff. Whoever heard of anything being made out of aluminum on which they did not raise the tariff? They always raise the tariff upon anything which contains aluminum. So the President went out of his way and disregarded the European price and adopted the American price and raised the tariff tremendously on taximeters. The French taximeters and the German taximeters can be brought into this country for about $45, but, bless your soul, they raised the tariff so as to keep them out, and only the aluminum-made taximeters are now being sold in this country.

I come next to print rollers. We can not find anything about them. The Tariff Commission themselves admit after all their studies that they do not know whether the tariff provision on print rollers did any good or not. I take it that it did not. I am using their own material just as they gave it to me.

By the way, let me digress here long enough to say that the President must have had these figures before him. The Tariff Commission must have given these figures to the President before he wrote that article as it was published in the paper. I do not mean his message to Congress, and I do not mean his campaign speech last fall, when he took the other side of the question, but I mean the article which appeared in the newspaper last Tuesday. Why do I say that? Because if Senators will notice there is but one single article to which the President refers in a complimentary way as a result of the good work of the Tariff Commission. Here is what he said about it, and I digress long enough to read it?

A notable instance of which was the protection of the dairy industry.

Senators, I have here the Tariff Commission's own figures about the prices of dairy products. Some of them went up and some of them went down. I am going to give the entire list for six years so Senators may examine it to-morrow in the RECORD and determine for themselves whether the prices went up or went down. I do not know how it is. Senators may examine the figures and take their choice. So far as dairy products are concerned, they are really the only item that has been passed upon by the Tariff Commission and approved by the President where there has even been a standstill in the price. What are we going to do about it? Are we going to vote to continue a system of legislation of that kind? Are we going to continue to give a power to the President which we should retain for ourselves? I want to speak for a moment of the power granted the commission.

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

The VICE PRESIDENT. Does the Senator from Tennessee yield to the Senator from Wisconsin?

Mr. McKELLAR. I yield.

Mr. BLAINE. I call attention to the fact that the butter proceeding was 20 months before the Tariff Commission, but it took the Tariff Commission and the President only 4 months to decide on bobwhite quail. After the increase of 4 cents a pound on butter, butter went down in price, and during the peak production of butter in 1926 the average level of price to the dairy farmers was about 12 cents less than for the corresponding period of the former year.

Mr. McKELLAR. I will say to the Senator from Wisconsin that I have no doubt he is an expert, because he comes from a great butter State. I imagine Wisconsin is one of the greatest butter States in the Union. He ought to know what he is talking about. After a careful analysis of every one of the 32 articles upon which the President and the Tariff Commission passed, I am prepared to say that butter and butter alone is the only thing on which they can even claim a benefit.

Mr. SMOOT. Mr. President, does the Senator object to the rate on butter provided in the bill?

Mr. McKELLAR. We are not talking about the rate on butter. I will tell the Senator what we are talking about. We are talking about an absolutely incompetent and inefficient Tariff Commission and the granting of a great power to the President of the United States when there is no necessity for it and no reason for it. That is what I am talking about. I am talking about the flexible provision. I am endeavoring to show that the activities of the Tariff Commission were of not the slightest value to the American people.

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

Mr. McKELLAR. I yield.

Mr. SMOOT. Mr. President, I should like to ask the Senator from Wisconsin if he opposes an increase in the tariff rates on butter?

Mr. McKELLAR. Mr. President, I do not want to yield for that purpose. I do not desire to get into a controversy about that at this time.

Mr. BLAINE. I will be glad to answer the Senator in my own time.

Mr. McKELLAR. I think that would be better. I am not discussing rates for that purpose; I am discussing rates to show that the action of the Tariff Commission, as approved by the President in increasing tariff duties, has been of no value to any farmer, of no value to any industry, of no value to the consumer, in fact, of no value to anyone. If the Tariff Commission had never been authorized by the tariff act of 1922, and if members of the Tariff Commission had never been appointed, all the American people would have been just as well off, because they would have saved the eight or ten million dollars which has been expended by that commission.

Mr. HASTINGS. Mr. President——

The VICE PRESIDENT. Does the Senator from Tennessee yield to the Senator from Delaware?

Mr. McKELLAR. I yield.

Mr. HASTINGS. I should like to inquire of the Senator whether his argument, regardless of what he intends it to be, does not prove that an increase in rates does not increase prices?

Mr. McKELLAR. I think if the rates were increased by the proper constitutional body, namely, the Congress of the United States, that action would have the effect of increasing prices to the consumer; but when the making of rates is turned over to a commission that does not know anything about the subject and probably never discusses it with anybody, but merely makes its decision from what it finds in the books, a different condition prevails.

Mr. HASTINGS. Mr. President——

The VICE PRESIDENT. Does the Senator from Tennessee yield further to the Senator from Delaware?

Mr. McKELLAR. I yield.

Mr. HASTINGS. In other words, if a rate is increased by Congress, it will increase the cost to the consumer?

Mr. McKELLAR. That is, if it is properly increased.

Mr. HASTINGS. But if it is increased by the commission it will not increase the cost to the consumer?

Mr. McKELLAR. Oh, no; the Senator misunderstood me entirely. There are certain products as to which a tariff duty has absolutely no effect. The Congress could put a tariff duty of $10 a bushel on wheat, for instance, and it would not affect the price a particle. It could levy a duty of $10 a bale on short-staple cotton, but it would not have any effect. There are many commodities as to which the market is not made in America, and, of course, the tariff would have no effect upon them.

It has been my experience that a tariff duty that has been put on or taken off by the Congress is very much more effective in its relation to prices than a tariff duty that has been put on by the Tariff Commission; and I challenge the Senator from Utah or any other Senator on the other side of the Chamber, to show that the Tariff Commission has ever materially benefited any industry or consumer or any other person in the United States.

Mr. HASTINGS. Mr. President——

The VICE PRESIDENT. Does the Senator from Tennessee yield further to the Senator from Delaware?

Mr. McKELLAR. Yes; I yield.

Mr. HASTINGS. I will interrupt the Senator but for a moment. Has he any figures to show what the prices would have been if the tariff duty had not been increased by the commission?

Mr. McKELLAR. No, sir; I have not; and it would be impossible, of course, to obtain such figures. I call the Senator's attention to the figures I have before me, though, and especially as to butter, and I want to call the attention of the Senator from Wisconsin to the figures as to butter. The price of butter has been going down considerably lately. It got down in July to as low as 42 cents. So when the President cites the great good which has come to the butter and to the dairy industry, he is mistaken.

I do not know who furnished the President his figures. I can not blame the President very greatly. He has not been over here long enough to become fully acquainted with our people and our conditions, but somebody has misled him as to the value of the Tariff Commission. It is just not there. It is impossible to analyze these reports—and I have here on my desk [exhibiting] various pamphlets and books containing reports which have been prepared by the Tariff Commission, all to no purpose.

Mr. President, I wish to refer to one or two more commodities. I have not quite finished the list, and I desire to make my statement complete. The next item is cheese. The price of cheese has remained about the same, though it has gone down a little. The price of Swiss cheese has gone down considerably, while American cheese has remained about the same in price.

I next come to crude magnesite. It has gone down in price from $14 a ton to $11 a ton.

I next come to pig iron. It is impossible to fool the Senator from Utah and the Senator from Pennsylvania about pig iron. What did the President and the commission do to pig iron? The tariff duty on pig iron was increased from 75 cents to $1.12½ by the President and the Tariff Commission, and the committee has still further raised it to $1.50 a ton. Let us see what happened when the President raised the duty on pig iron 37½ cents a ton. Pig iron was selling at $22.26 a ton when the duty was raised, while it has been selling at twenty-one dollars and some cents ever since.

Mr. SMOOT. Then, if the tariff rate shall be increased in the pending bill the price will still go lower, I presume!

Mr. McKELLAR. I do not know what it will do. If all tariff making is of a kind and piece of the tariff making by the President and the Tariff Commission, there is no telling whether the price will go up or down when the duty is raised; I can not tell as to that.

I next come to onions. The duty on onions was increased by President Coolidge in 1928. Onions were selling at that time at $3 a bushel and they went down to $2.04 a bushel and have been going down all the time since.

I next come to peanuts. I hope my Tennessee friends and my Virginia friends and my North Carolina friends and my Alabama friends will take some interest in peanuts. A great propaganda has been going on throughout the Southern States—in Alabama, for instance—in regard to peanuts. I want to call attention of Senators from that section to what happened to peanuts when the duty was raised. In January, 1929, the President raised the duty on unshelled peanuts from 3 to 4½ cents a pound, and on shelled peanuts from 4 to 6 cents a pound. Let us see what happened. The price went from 11.03 cents down to 9.28 cents a pound. The price has gone down since the President raised the tariff duty. I understand the Senate committee proposes to increase the duty still higher and to make it 7 cents a pound. They have taken another whack at it. As long as they can promise the peanut farmer that by raising the tariff the price will be raised, they will continue to do so; but I hope the peanut growers of Tennessee will look at the facts as they are, and realize that an increase in the tariff duty does not mean an increase in the price of peanuts. It has not been so heretofore, and it will not be so when this bill shall have passed with a higher duty on peanuts.

I next come to methanol. That is wood alcohol, about which the Senator from Pennsylvania talked so much this morning. The duty on methanol was increased by the President in 1926 from 12 cents a gallon to 18 cents a gallon. What happened to it? The price went down from 75 cents to 60 cents a gallon; it went off nearly 25 per cent. Whether the tariff had anything to do with it, I do not know; but I do know that the Tariff Commission, with the approval of the President, by the action taken with reference to increasing the duty on wood alcohol have not increased the price of that commodity.

I next come to cream prices. We are told that cream prices usually follow the prices of butter, but that prices as to cream could not be furnished us. However, I obtained some prices from the New York newspapers, and I find that the price of cream has been going down.

I next come to flaxseed, and I find that the price has risen slightly. In June the price was $2.48 a bushel, while in July it was $2.76.

I next come to canned Royal Anne cherries. I do not know so much about cherries, although I like them when they are by themselves, that is, certain kinds of cherries. The duty was increased from 2 to 3 cents a pound, but the price dropped from $2.65 to $2.60.

I next come to milk, the price of which remained exactly the same, there being no change.

In the case of rag rugs the price also dropped.

I next come to fluorspar. The price of fluorspar has dropped from $23.50 a ton to $18 a ton.

I next come to sodium silicofluoride. The price of that commodity has remained about the same.

I next come to potassium permanganate. Ah, potassium permanganate has increased in price. Actually the Tariff Commission has to its credit the increasing of the price of potassium permanganate from 15 cents to 16 cents, or 1 cent a pound.

Mr. SMOOT. Wonderful!

Mr. McKELLAR. Yes, as the Senator from Utah says, it is wonderful that a million-dollar-a-year commission, legislating with the President on tariff rates, should increase the price of about 1 article out of 32 by 1 cent a pound. I again refer to the doctrine of de minibus, the doctrine of trifles. It is ridiculous to talk about continuing such a commission. The American people ought to put out of office anyone who would vote for it. It can not be justified in conscience. The last item is barium carbonate, the price of which went down about $2.

There, Mr. President, is the story. In view of the facts I wish to ask Senators why it is that the President of the United States goes out of his way, over the advice of the leader of the majority in the Senate, to enter the tariff controversy. What is the reason for it? The President had all the figures which I have; he had the same information which I have, for I obtained it from the Tariff Commission; he knew that presidential action, following investigation by the Tariff Commission, in increasing tariff duties has not substantially changed the price of any commodity; yet he speaks of the supreme importance of the passage of the flexible provision of the tariff law.

Here is the record. The President must have known of the record, for, as I have said, he had access to the same figures which I have; yet here is what he says:

> I have no hesitation in saying that I regard it as of the utmost importance in justice to the public; as a protection for the sound progress in our economic system, and for the future protection of our farmers and our industries and consumers, that the flexible tariff, through recommendation of the Tariff Commission to the Executive, should be maintained.

It was a very flexible provision which the House adopted, but last October, when he was a candidate before the people, he was opposed to it; and he said the American people would never stand for it; and in that he was right; they are not going to stand for it. In my judgment, they will not retain in office anybody who will vote for a commission of this kind, if the question is raised, and it is going to be raised. Why is it, then, that the President is so insistent on it? Ah, Senators, it seems to me the reason is perfectly plain. It affords a club of power over the industries of this country. So long as it is in the President's power to act under such a provision they have got to kotow to him; they have got to consider him; they can not take a stand against him, because they do not know when he may use this power against them. It is a tremendous power, which was given in the first instance by the American people to the Congress of the United States.

What a wonderful speech on the constitutional side of this question was the speech of my distinguished friend the Senator from Idaho [Mr. BORAH] to-day. It is the greatest speech he ever delivered in this body or anywhere else, in my judgment. It breathed patriotism, love of country, love of government, all the way through. It breathed good sense all the way through. There is no reason for giving this power to the President. We are not doing our constitutional duty when we undertake to give it away.

I am sorry that my distinguished friend, my beloved friend, a man whom I have known here for 18 years, has taken another view about it. I refer to the senior Senator from Florida [Mr. FLETCHER]. I looked at the RECORD, and I found that in 1922, on August 11, this very question was before the Senate, and was voted on. A yea-and-nay vote was taken, and one of those voting "nay" was my esteemed friend, the senior Senator from Florida. It hurt me immeasurably when I heard him almost denounce the American Congress for the poor way in which it legislated on the tariff, the length of time it took, and what a cumbersome job it was to legislate on the tariff.

I hope my friend will read about how the Tariff Commission and the President have been legislating under the present law. If he does read it, I do not see how in the world, in the face of the facts, he will fail to turn around and vote against this iniquitous thing, this unconstitutional measure, this measure in which we are deliberately undertaking to take away the power that the people of America have lodged in the House of Representatives and the Senate of the United States, and give it to the President.

The distinguished Senator from Maryland [Mr. TYDINGS] was right. If we can give away this power, if we can turn over to the President the power to legislate on revenue, we can delegate to him any other power that we may have under the Constitution.

I am not going into the constitutional question. Suffice it to say that I think the Supreme Court were wrong in their opinion when they held the act of 1922 valid. They ought not to have done it; they made a mistake about it; and I hope the time will come when that great court—the greatest court in all the world—will see the error of their way, and change their opinion to accord with the Constitution of the United States, to accord with the proper policy of government, to accord with the right.

We ought not to give to the President this great power of raising revenue. It is immaterial, as I have shown, as it has been administered heretofore; but the great trouble is that it is a club which we put in the President's hands for the future, if he desires to use it in that way, toward the industries and toward the farmers and toward the consumers of the country.

Mr. President, I have already read the letter to the commission. I ask unanimous consent to insert in the RECORD the report of prices that has been made by the commission. I suppose the Senator from Utah sees no objection to that?

Mr. SMOOT. None whatever.

Mr. McKELLAR. It is a very interesting list of prices; and it will be well for Senators to study it before they finally vote on this matter. I also ask unanimous consent to insert in the RECORD a statement of the total appropriations made for the Tariff Commission.

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

The matter referred to is as follows:

UNITED STATES

The following table shows the trend of domestic manufacturers' prices for different qualities and sizes of plate glass year by year since 1922, together with index numbers based on the prices of 1913. It will be observed that the prices of glazing quality with surface areas from 384 to 720 square inches (trade sizes, 2 feet 8 inches to 5 feet) advanced from 24 cents per square foot before the war to 85 cents per square foot in 1923 and 1924—an increase of 254 per cent. Since 1924 three general price reductions have taken place—to 63 cents (1925), 50 cents (1926), and 42 cents per square foot (1927) for the particular quality and surface areas mentioned above. More than 60 per cent of the total sales of domestic plate glass in the United States are of glazing quality and in sizes below 720 square inches.

POLISHED PLATE GLASS

Domestic manufacturers' prices of cut sizes, one-fourth inch, in selected years, 1913–1927

(Per square foot)

Sizes in square feet and inches	October, 1913	January, 1922	October, 1922	January, 1923	May, 1923	April					
						1924	1925	1926	1927	1928	1929
Glazing quality:											
1 foot to 2 feet 8 inches	0.19	0.42	0.49	0.49	0.55	0.55	0.42	0.42	0.21	0.19	0.21
1 foot to 2 feet 8 inches (automobile size)	.19	.42	.66	.70	.85	.85	.63	.42	.35	.24	.35
2 feet 8 inches to 5 feet	.24	.52	.66	.70	.85	.85	.63	.50	.42	.33	.39
5 to 10 feet	.32	.58	.70	.73	.88	.88	.69	.54	.46	.35–.37	.425
Mirror glazing quality:											
1 foot to 2 feet 8 inches	.26	.48	.54	.64	.62	.62	.48	.48	.26	.26	.26
1 foot to 2 feet 8 inches (automobile size)	.26	.48	.72	.77	.93	.93	.78	.48	.39	.39	.39
2 feet 8 inches to 5 feet	.30	.60	.72	.77	.93	.93	.78	.65	.49	.45	.45
5 to 10 feet	.36	.66	.75	.81	.96	.96	.90	.75	.57	.49–.51	.50
Second silvering quality:											
1 foot to 2 feet 8 inches	.29	.53	.62	.62	.72	.72	.53	.53	.30	.30	.30
1 foot to 2 feet 8 inches (automobile size)	.29	.53	.82	.87	1.03	1.03	.86	.53	.44	.44	.44
2 feet 8 inches to 5 feet	.33	.69	.82	.87	1.03	1.03	.86	.70	.54	.50	.50
5 to 10 feet	.39	.80	.92	.95	1.10	1.10	.99	.83	.64	.55–.58	.565

WHEAT

Prices of Minnesota No. 1 dark northern, 1923-1928

(Price per bushel)

Month	1923	1924	1925	1926	1927	1928
January	$1.28	$1.24	$1.98	$1.78	$1.47	$1.43
February	1.31	1.27	1.94	1.73	1.46	1.42
March	1.29	1.26	1.80	1.67	1.43	1.47
April	1.34	[1] 1.26	1.60	1.66	1.41	1.63
May	1.32	1.30	1.73	1.64	1.53	1.64
June	1.22	1.37	1.69	1.67	1.57	1.53
July	1.18	1.47	1.66	1.75	1.58	1.47
August	1.22	1.38	1.67	1.56	1.50	1.24
September	1.26	1.35	1.58	1.48	1.37	1.26
October	1.26	1.51	1.58	1.53	1.34	1.23
November	1.19	1.54	1.67	1.48	1.34	1.24
December	1.19	1.71	1.77	1.48	1.37	1.22

[1] Rate of duty increased from 30 cents to 42 cents per bushel of 60 pounds by President's proclamation effective Apr. 6, 1924.

Source: Compiled from information furnished by U. S. Department of Agriculture.

WHEAT FLOUR

Wholesale prices, average prices at Minneapolis, Kansas City, and New York, 1927 and 1928

(Per barrel)

	Standard patents, Minneapolis	Winter patents, Kansas City	Spring patents, New York		Standard patents, Minneapolis	Winter patents, Kansas City	Spring patents, New York
1927				1928			
January	$7.46	$7.34	$7.44	January	$7.45	$7.27	$7.13
February	7.42	7.36	7.36	February	7.37	6.66	7.38
March	7.32	7.24	7.32	March	7.54	7.50	7.63
April	7.25	7.18	7.10	April	8.11	8.27	8.02
May	7.83	7.73	7.64	May	8.49	8.33	8.34
June	7.81	7.91	7.72	June	7.95	7.96	7.68
July	7.81	7.58	7.60	July	7.36	7.06	7.09
August	7.60	7.53	7.64	August	6.62	6.29	6.45
September	7.07	7.26	7.14	September	6.59	6.28	6.37
October	7.23	6.54	7.05	October	6.41	5.59	6.36
November	7.14	7.19	7.05				
December	6.86	7.25	7.08				
Average	7.40	7.34	7.34				

These prices from page 1208 of Summary. Source not known.

SODIUM NITRITE

Price per pound, 96 to 98 per cent, New York spot market, 1923-1928

Month	1923		1924		1925		1926		1927		1928	
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported
January	$0.10	$0.08	$0.08	$0.08¼	$0.08⅝	$0.09½	$0.09	$0.08⅞	$0.08¾	$0.08¾	$0.07½	$0.08½
February	.10	.08½	.07¾	.07¾	.08⅝	.09½	.09	.09	.08¾	.08¾	.07½	.08½
March	.10	.08¼	.08½	.08¼	.08⅝	.09½	.09	.08⅝	.08¾	.08¾	.07¼	.08½
April	.10	.08¼	.08¼	.08¼	.08⅝	.09¼	.09	.08⅞	.08	.08½	.07¼	.08½
May	.10	.08¼	.08¼	.08¼	.08⅝	.09¼	.09	.08⅞	.08	.08½	.07¼	.08½
June	.08¼	.08	.08½	.08¾	.08⅝	.09¼	.09	.08¾	.08	.08½	.07¼	.08½
July	.07¼	.07¾	.08½	.08¾	.08⅝	.09¼	.09	.08¾	.08	----------	.07¼	.08½
August	.07¼	.07½	.08¼	.08¾	.08⅝	.09¼	.09	.08¾	.08	----------	.07¼	.08½
September	.07¼	.07½	.08¼	.09	.08½	.09	.08¾	.08¾	.08	.08½	.07¼	.08½
October	.07¼	.07½	.09	.09	.09	.09	.08¾	.08¾	.08	.08½	.07¼	.08½
November	.07¼	.07½	.09	.09¼	.09	.09	.08¾	.08¾	.08	.08½	.07¼	.08¾
December	.08	.07½	.09¼	.09½	.09½	.09	.08¾	.08¾	.07½	.08½	.07¼	.08¾

The low quotation on the date nearest the first of each month.
Rate of duty increased from 3 cents to 4½ cents per pound by President's proclamation effective June 5, 1924.
Beginning May, 1926, quotations are from Chemical Markets.
Source: Oil, Paint, and Drug Reporter, New York.

BARIUM DIOXIDE

Price per pound, 86 to 88 per cent, New York spot market, 1923-1928

Month	1923		1924		1925		1926		1927		1928, imported
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	
January	$0.18	$0.14	$0.17	$0.13½	$0.17	$0.15	$0.13	$0.13	$0.13	$0.13	$0.12
February	.18	.14	.17	.13½	.17	.15	.13	.13	.13	.13	.12
March	.17	.14	.16	.15	.16	.15	.13	.13	.13	.13	.12
April	.17	.14	.17	.14½	.16	.15	.13	.13	.13	.13	.12
May	.17	.14	.17	.14½	.13	.13	.13	.13	.13	.13	.12
June	.17	.14	.17	.15	.13	.13	.13	.13	.13	.13	.12
July	.17	.14	.17	.15	.13	.13	.13	.13	.13	.12	.12
August	.17	.14	.17	.15	.13	.13	.13	.13	.13	.12	.12
September	.17	.14	.17	.15	.13	.13	.13	.13	.13	.12	.12
November	.17	.14	.17	.15	.13	.13	.13	.13	.13	.12	.12
December	.17	.14	.17	.15	.14	----------	.13	.13	.13	.12	.12

OXALIC ACID

Price per pound, New York spot market, 1924–1928

Month	1924		1925		1926		1927		1928	
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported
January	$0.12	$0.11¾	$0.10¼	$0.10¼	$0.10¾	$0.11	$0.11	$0.11½	$0.11	$0.11¾
February	.11½	.11¼	.11	.10¼	.10¾	.11	.11	.11½	.11	.11¾
March	.10½	.10¼	.10½	.10¼	.10¾	.11	.11	.11½	.11	.11¾
April	.10	.10½	.10¾	.10¾	.10¾	.11¾	.11	.11⅝	.11	.11⅝
May	.10¼	.10¼	.10¾	.10¾	.10¾	.11¼	.11	.11⅝	.11	.11¾
June	.10¼	.10	.10¾	.10¾	.10¾	.11¼	.11	.11⅝	.11	.11¾
July	.10	.10	.10¾	.11	.10¾	.11¼	.11	----------	.11	.11¾
August	.9¾	.9½	.10¾	.11	.10¾	.11¼	.11	----------	.11	.11¾
September	.9½	.9½	.10¾	.11	.10¾	.11	.11	.11¾	.11	.11⅞
October	.9½	.9½	.10¾	.11	.11	.11	.11	.11¾	.11	.11⅞
November	.9½	.9½	.10¾	.11	.11	.11	.11	.11¾	.11	.11⅞
December	.9½	.9½	.10¾	.11	.11	.11½	.11	.11¾	.11	.11⅞

GOLD LEAF

Monthly price: XX deep, 3⅜ by 3⅜ inch packages of 20 books, 500 leaves to a book, 1923–1928

(Price per book)

Month	1923	1924	1925	1926	1927	1928
January	$12.00	$12.00	$9.75–$12.00	$10.00–$12.00	$10.50–$12.00	$10.50–$12.00
February	----------	12.00	9.75– 12.00	10.00– 12.00	10.50– 12.00	10.50– 12.00
March	----------	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 12.00
April	12.00	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 12.00
May	----------	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 12.00
June	----------	11.75	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 12.00
July	----------	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 12.00
August	----------	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 12.00
September	----------	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 12.00
October	----------	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 11.50
November	12.00	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 11.50
December	----------	12.00	9.75– 12.00	10.50– 12.00	10.50– 12.00	10.50– 11.50

DIETHYLBARBITURIC ACID

Price per pound, New York spot market, 1924–1928

Months	1924		1925		1926		1927		1928	
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported
January	$8.50	----------	$8.00	$4.25	$8.00	$4.15	$8.00	$4.00	$4.00	$3.80
February	8.50	----------	8.00	4.00	8.00	4.15	8.00	4.10	4.60	3.65
March	8.00	$4.10	8.00	4.10	8.00	4.15	8.00	4.00	4.60	3.65
April	8.50	----------	8.00	4.00	8.00	4.00	8.00	3.85	4.60	3.65
May	10.00	3.75	8.00	4.00	8.00	4.00	8.00	3.85	4.60	3.65
June	10.00	3.75	8.00	4.00	8.00	4.00	8.00	3.85	4.60	3.65
July	10.00	3.75	8.00	4.00	8.00	4.00	8.00	3.85	4.60	3.65
August	10.00	3.50	8.00	4.00	8.00	4.00	8.00	3.85	4.60	3.65
September	10.00	3.50	8.00	4.00	8.00	4.00	8.00	3.85	4.60	----------
October	10.00	3.50	8.00	4.00	8.00	4.00	8.00	3.85	4.60	----------
November	10.00	3.30	8.00	4.00	8.00	4.00	8.00	3.85	4.60	----------
December	8.00	4.50	8.00	4.20	8.00	4.00	4.60	3.75	4.60	----------

POTASSIUM CHLORATE, POWDERED

Price per pound, New York spot market, 1924–1928

Month	1924		1925		1926		1927		1928	
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported
January	$0.08½	$0.07½	$0.08½	$0.06¾	$0.08½	$0.08¼	$0.08½	$0.08¼	$0.08½	$0.07½
February	.08½	.07¼	.08½	.06¾	.08½	.08¼	.08½	.08¼	.08½	.07¾
March	.08½	.07	.08½	.07	.08½	.08¼	.08½	.08¼	.08½	.07¾
April	.08½	.07½	.08½	.09	.08½	.08¼	.08½	.08¼	.08½	.07½
May	.08¼	.06¾	.08½	.08½	.08½	.08½	.08½	.08¼	.08½	.07½
June	.08½	.06¾	.08½	.08½	.08½	.08¼	.08½	.08¼	.08½	.07½
July	.08½	.06¾	.08½	.09	.08½	.08¼	.08½	.08¼	.08½	.07¾
August	.08½	.07	.08½	.08¼	.08½	.08¼	.08½	.08¼	.08½	.07½
September	.08½	.06¾	.08½	.08¼	.08½	.08¼	.08½	.08¼	.06½	.07½
October	.08½	.06½	.08½	.08¼	.08½	.08¼	.08½	.08¼	.06½	.07½
November	.08½	.06½	.08½	.08¼	.08½	.08¼	.08½	.08¼	.07½	.07½
December	.08½	.06½	.08½	.08¼	.08½	.08¼	.08½	.07½	.07½	.07¼

SEWED STRAW HATS

Prices not available.

TAXIMETERS—PRICES

None available except some confidential price data used in report to President. This information only from two companies, showing price range of $100 to $150 each at close of 1922.

German prices shown as $60 to $135.

PRINT ROLLERS

Prices not available.

SWISS CHEESE

Average monthly prices for imported Swiss (Emmanthal, round, large-eyed) at New York, 1923–May, 1929

(Cents per pound)

Month	1923	1924	1925	1926	1927	1928	1929
January	43.10	44.00	47.20	47.00	38.60	48.00	47.00
February	43.25	45.00	47.75	46.50	38.50	47.12	47.00
March	43.25	45.00	47.75	43.25	39.35	46.50	47.00

SWISS CHEESE—continued

Average monthly prices for imported Swiss (Emmanthal, round, large-eyed) at New York, 1923–May, 1929—Continued

(Cents per pound)

Month	1923	1924	1925	1926	1927	1928	1929
April	44.20	45.40	47.75	42.60	41.30	46.50	47.00
May	47.00	45.70	47.20	42.50	43.00	46.50	47.75
June	47.50	46.10	47.00	42.75	45.00	46.70	
July	48.70	46.60	47.20	43.30	46.20	47.50	
August	48.75	47.70	47.40	39.40	46.60	48.00	
September	47.50	49.50	47.50	38.60	47.75	47.60	
October	48.60	49.00	47.40	38.60	47.25	47.50	
November	48.80	48.00	47.25	39.00	47.60	47.10	
December	46.10	47.00	47.00	39.00	48.00	47.00	
Average	46.40	46.58	47.37	41.88	44.01	47.17	

DOMESTIC SWISS CHEESE

Average wholesale monthly prices of Wisconsin whole-milk, round, fancy, large-eyed cheese at New York, 1923–May, 1929

(Cents per pound)

Month	1923	1924	1925	1926	1927	1928	1929
January	32.5	40.0	35.5	38.5	35.0	39.0	39.5
February	33.5	40.0	35.5	39.0	35.0	39.0	37.5
March	33.5	40.0	37.0	38.5	35.0	39.0	37.5
April	37.0	40.0	38.5	38.5	35.0	39.0	37.5
May	37.5	40.0	38.5	38.5	35.0	39.0	37.5
June	38.0	40.0	38.5	38.5	35.0	39.0	
July	39.5	40.0	38.5	38.5	35.0	39.5	
August	39.5	36.5	38.5		36.5	39.5	
September	39.5	36.5	38.5	33.5	37.0	39.5	
October	39.5	36.5	37.0	35.0	37.0	39.5	
November	39.5	36.5	39.0	35.0	38.5	39.5	
December	40.0	36.5	39.0	35.0	38.5	39.5	
Average	37.46	38.54	37.83	37.14	36.04	39.25	

CRUDE MAGNESITE

Prices (California), 1923–1928

(Price per net ton f. o. b. shipping point)

Month	1923	1924	1926	1927	1928
January	$14.00	$14.00		$14.00	$14.00
February	14.00		$14.00	14.00	14.00
March	14.00		14.00	14.00	14.00
April	14.00		14.00	14.00	14.00
May	12.50		14.00	14.00	11.00
June	12.50		14.00	14.00	11.00
July			14.00	14.00	11.00
August	14.00		14.00	14.00	11.00
September	14.00		14.00	14.00	11.00
October	14.00		14.00	14.00	11.00
November	14.00		14.00	14.00	11.00
December	14.00		14.00	14.00	11.00

PIG IRON

Domestic and foreign prices

(Per long ton)

	1927	1928
Philadelphia	$21.55	$21.17
England (f. o. b. plant)	18.16	15.92
Germany (f. o. b. plant)	19.27	18.85
France (f. o. b. plant)	19.10	17.59
Belgium (f. o. b. plant)	18.40	16.68

Standard brands eastern Pennsylvania No. 2x foundry pig iron.

MONTHLY PRICE

Philadelphia market, 1923–1928

(Price per gross ton)

Month	1923	1924	1925	1926	1927	1928
January	$29.76	$24.11	$25.01	$24.26	$22.76	$20.56
February	30.01	24.04	25.01	24.14	22.26	21.14
March	32.30	24.16	24.21	23.36	22.26	21.26
April	32.95	23.06	22.82	23.26	22.26	21.26
May	32.76	22.67	21.51	22.89	22.26	21.26
June	30.76	21.85	21.26	22.66	22.14	21.26
July	27.68	21.26	21.26	22.26	21.51	20.86
August	25.89	21.51	21.57	22.26	21.26	20.76
September	26.26	21.76	21.96	22.26	20.76	21.01
October	24.04	21.76	22.64	22.26	20.51	21.26
November	23.01	22.64	23.64	23.56	20.26	21.64
December	24.26	24.56	24.26	23.39	20.26	21.76

AVERAGE OF NEW YORK CITY QUOTATIONS OF WHOLESALE PRICES OF ONIONS

(Per 100 pounds)

Month and year	New York yellows in 100-pound sacks	Texas Bermuda in 50-pound crates	Egyptian in 112-pound bags	Spanish in 38-pound crates, 50's and 72's
1928				
August	$2.42	$2.20		$4.10
September	3.12			4.47
October				4.03
November	3.12			3.92
December	3.00			3.58
1929				
January				5.47
February				6.29
March	2.85	6.30		
April	2.01	4.62	$3.58	
May		2.96		
June		3.72	3.15	5.76
July	2.66	2.70	3.09	5.11
August	2.16			4.45
September	2.04			4.37

MONTHLY AVERAGE PRICE OF IMPORTED AND DOMESTIC PEANUTS AT CHICAGO, 1928–29

(Cents per pound)

Month	Unshelled Virginia Jumbos	Shelled		
		Virginia extra large	Chinese	
			28–30's	30–32's
1928				
January	11.95	14.50	13.00	12.50
February	12.32	14.14	12.94	12.17
March	12.22	12.72	12.25	11.82
April	12.14	12.31	12.29	11.88
May	12.11	12.00	12.25	11.81
June	12.34	12.28	12.14	11.88
July	12.66	12.46	12.28	11.88
August	12.52	12.42	12.38	12.05
September	12.50	12.25	12.31	12.09
October	12.22	11.98	12.25	12.00
November	11.86	11.53	12.00	11.69
December	11.61	11.78	12.00	11.57
1929				
January	11.15	11.90	12.15	11.82
February	11.03	12.41	12.52	12.11
March	10.81	12.00	12.21	11.84
April	10.42	11.58	12.21	11.79
May	9.85	11.35	12.20	11.80
June	9.78	11.58	12.42	11.96
July	9.65	11.72	12.32	12.02
August	9.28	11.66	12.34	12.03

METHANOL

Price per gallon, New York spot market, in tanks, January, 1926–1928

(Source: Oil, Paint, and Drug Reporter)

Month	95 per cent			Pure		
	1926	1927	1928	1926	1927	1928
January	$0.55	$0.80	$0.45	$0.65	$0.85	$0.50
February	.55	.80	.40	.65	.85	.46½
March	.55	.80	.43	.65	.80	.46½
April	.53	.80	.43	.65	.85	.46½
May	.53	.80	.43	.65	.85	.42½
June	.53	.63	.43	.65	.68	.40½
July	.52	.63		.65	.68	
August	.55	.63	.45	.65	.68	.50
September	.65	.50	.45	.75	.55	.50
October	.65	.50	.45	.75	.55	.50
November	.70	.45	.55	.80	.50	.60
December	[1] .75	.45	.55	.85	.50	.60

[1] Rate of duty increased from 12 cents to 18 cents per gallon by President's proclamation effective Dec. 27, 1926.

FLAXSEED

Monthly average prices at Minneapolis and Buenos Aires, 1928–29

(Per bushel)

Date	Minneapolis	Buenos Aires
1928		
January	$2.24	$1.70
February	2.27	1.69
March	2.33	1.70
April	2.36	1.73

FLAXSEED—continued

Monthly average prices at Minneapolis and Buenos Aires, 1928–29—Con.

(Per bushel)

Date	Minneapolis	Buenos Aires
1928		
May	$2.46	$1.80
June	2.38	1.76
July	2.21	1.74
August	2.05	1.69
September	2.09	1.70
October	2.28	1.80
November	2.35	1.88
December	2.39	1.71
1929		
January	2.45	1.72
February	2.55	1.74
March	2.49	1.71
April	2.45	1.73
May	2.45	1.73
June	2.48	1.71
July	2.76	2.13

CANNED ROYAL ANNE CHERRIES

Prices, No. 2½ cans, standard, f. o. b. cannery, California

(Per dozen)

Year:	
1919	$3.65
1920	3.90
1921	2.50
1922	3.35
1923	2.85
1924	2.45
1925	2.85
1926	2.95
1927	2.65
1928 [1]	2.60

[1] Rate of duty increased from 2 cents to 3 cents per pound by President's proclamation effective Jan. 2, 1928.

MILK

Wholesale prices at New York City and Montreal, 1928–July, 1929

(Cents per United States gallon)

Date	New York	Season	Montreal
1928			
January	28.9	Fall and winter, 1927–28	23.2
February	28.9	do	
March	25.4	do	
April	24.9	Spring and summer, 1928	16.8
May	24.9	do	
June	24.9	do	
July	27.0	do	
August	28.9	do	
September	29.3	do	23.2
October	29.3	do	
November	29.3	Fall and winter, 1928–29	
December	29.3	do	
1929			
January	29.3	Winter, 1929	23.2
February	28.9	do	
March	28.9		
April	28.9		
May	28.9		
June	28.9		
July	28.9		

Prices per 100 pounds

Year and season	Montreal	Toronto
Spring and summer, 1926	$1.95	$1.97–$2.26
Fall and winter, 1926–27	2.32–2.69	2.55

Cream prices are based on the price of butterfat and fluctuate directly with it. (See butter prices.)

RAG RUGS

Individual producers' net mill selling prices of domestic hit-and-miss rugs by sizes

(Calendar year 1925)

24 by 36 inches	25 by 50 inches	27 by 54 inches
$0.3635	$0.4762	$0.5760
.3810	.4800	.5953
.3846	.5184	.5976
.3952	.5769	.6056
.3999	.5998	.6250
.4240	.6896	.6265
.4341		.6797
.4346		.6834
.4838		.6879
.5280		.7344
.5364		.7654
.5374		.8046
		.8935
[1] .4418	[1] .5568	[1] .6827

[1] Average unweighted.

FLUORSPAR

Monthly price: Gravel, not less than 85 per cent CaF_2 and not over 5 per cent SiO_2, 1923–1928

(Price per ton for middle western mines)

Months	1923	1924	1925	1926	1927	1928
January	$21.50	$23.50	$20.00	$17.50	$18.00	$15.875
February	21.50	22.75	20.00	17.50	18.00	14.50–15.00
March	21.50	23.00	21.00	17.75	18.00	14.50–15.00
April	21.50	23.00	19.00–21.00	18.00	18.00	14.50–15.00
May	21.50	23.00	16.00–19.00	18.00	18.00	15.50–16.00
June	23.50	23.50	16.00–19.00	18.00	18.00	16.00
July	23.50	23.50	16.00–20.00	18.00	17.00–18.00	16.00–17.00
August	23.50	23.50	18.00–20.00	18.00	17.00–18.00	17.00
September	23.50	23.50	16.00–20.00	15.75	17.00–18.00	17.00
October	23.50	18.50	15.00–18.00	16.00	16.25–16.50	17.00–18.00
November	23.50	18.50	16.00–18.00	18.00	16.00	18.00
December	23.50	18.50	16.00–18.00	18.00	16.00	18.00

SODIUM SILICOFLUORIDE

Prices per pound, New York market

(January, 1928–August, 1929)

Month	1928	1929
January	$0.04½	$0.05
February	.04½	.05
March	.04½	.05
April	.04½	.05
May	.04½	.05
June	.04½	.05¼
July	.04⅜	.05¼
August	.04⅜	.05¼
September	.04⅜	
October	.05	
November	.05	
December	.05	

POTASSIUM PERMANGANATE

Prices per pound New York spot market

(January, 1928–August, 1929)

Month	1928		1929	
January	$0.1525	$0.1550	$0.16	$0.1650
February	.1525	.1550	.16	.1650
March	.1525	.1550	.16	.1650
April	.1525	.1550	.16	.1650
May	.1525	.1550	.16	.1650
June	.1500	.1525	.16	.1650
July	.1500	.1525	.16	.1650
August	.1500	.1525	.16	.1650
September	.1500	.1525	.16	.1650
October	.1500	.1525	.16	.1650
November	.1500	.1525	.16	.1650
December	.1500	.1525	.16	.1700

BARIUM CARBONATE; PRECIPITATED

Prices per ton of imported and domestic, New York market, 1927–August, 1929

Month	1927		1928		1929	
	Domestic	Imported	Domestic	Imported	Domestic	Imported
January	$50–$52	$48–$50	$48.00–$50.00	$48.00–$50.00	$57.50–$60.00	$57.50–$60.00
February	50–52	48–50	48.00–50.00	48.00–50.00	57.50–60.00	57.50–60.00
March	50–52	48–50	47.75–55.00	47.75–55.00	57.50–60.00	57.50–60.00
April	50–52	48–50	47.50–55.00	47.50–55.00	58.00–60.00	60.00–65.00
May	50–52	48–50	57.50–60.00	47.50–60.00	58.00–60.00	60.00–65.00
June	50–52	48–50	57.00–60.00	57.00–60.00	58.00–60.00	60.00–65.00
July	50–52	48–50	57.00–60.00	57.00–60.00	58.00–60.00	58.00–60.00
August	52–54	52–53	57.50–60.00	57.50–60.00	58.00–60.00	58.00–60.00
September	52–54	52–53	57.50–60.00	60.00–68.50		
October	52–54	52–53	57.50–60.00	60.00–68.50		
November	52–54	52–53	57.50–60.00	57.50–60.00		
December	52–54	52–53	57.50–60.00	57.50–60.00		

BUTTER

Imports for consumption 1923–June 30, 1929

Year	Quantity	Value	Unit value
	Pounds		
1923	20,809,638	$7,543,698	$0.36
1924	19,279,309	6,958,372	.36
1925	6,861,435	2,533,219	.37
1926 [1]	6,727,055	2,389,387	.36
1927	8,456,397	2,873,177	.34
1928	4,334,684	1,562,283	.36
1929 (6 months)	1,520,837	554,514	.36

[1] Rate of duty increased from 8 cents to 12 cents per pound by President's proclamation, effective Apr. 5, 1926.

BUTTER

Domestic production, all grades

Year:	Pounds
1919	1,581,573,624
1920	1,561,535,000
1921	1,738,917,000
1922	1,824,609,000
1923	1,899,921,000
1924	2,000,548,000
1925	1,993,103,000
1926	2,069,638,000
1927	2,097,712,000

BUTTER

Monthly prices creamery—92 score. New York market 1923–1928

(Per pound)

Month	1923	1924	1925	1926	1927	1928
January	$0.5219	$0.5293	$0.4061	$0.4475	$0.4915	$0.4876
February	.4946	.5038	.4084	.4484	.5154	.4662
March	.4957	.4688	.4760	.4308	.5017	.4944
April	.4631	.3875	.4469	[1] .3955	.5034	.4549
May	.4163	.3874	.4285	.4092	.4346	.4493
June	.3886	.4149	.4259	.4118	.4251	.4413
July	.3916	.4049	.4244	.4054	.4172	.4493
August	.4392	.3837	.4346	.4164	.4188	.4693
September	.4598	.3789	.4761	.4432	.4646	.4875
October	.4745	.3846	.5097	.4671	.4839	.4779
November	.5241	.4248	.5059	.5033	.4979	.5057
December	.5473	.4474	.4919	.5450	.5187	.5046

[1] Rate of duty increased from 8 cents to 12 cents per pound by President's proclamation effective Apr. 5, 1926.

Source: Crops and Markets.

BUTTER

1929—Jan. 15	$0.4700
February	.5000
March	.4850
April	.4525
May	.4300
June	.4350
July	.4200
August	.4350
September	.4600

Total appropriations for the Tariff Commission

1922	$300,000.00
1923	325,000.00
1923 (deficiency)	150,000.00
1924	700,000.00
1925	681,980.00
Field classification	1,260.00
1926	721,500.00
1926 (deficiency)	6,820.76
1927	699,000.00
1928	682,000.00
1928 (deficiency)	4,000.00
1929	754,000.00
1929 (deficiency)	4,000.00
1930	789,000.00
Total	5,816,560.76

Mr. METCALF. Mr. President, I have been very much interested in listening to the Senator from Tennessee; and I am glad there was one article on which the tariff was raised that went up 1 cent a pound.

Mr. President, for the past two weeks we have heard much from the other side of the Chamber about the tariff-ridden American people. If we should picture a state of affairs such as has been described by the Democratic speakers we would indeed find our country in a most pitiable condition. We would be looking into years of feudalism and slavery as a result of the passage of this bill.

Let us disabuse our minds of the thought that we are a tariff-ridden people; that the United States bears the yoke of an unconscionable tariff placed there at the command of greedy manufacturers.

There is not a European nation to-day whose tariff duties do not exact more from her people than ours, when measured by their ability to pay. There is hardly a European nation which has not piled duty upon duty to its list of protected articles during the past few years. Great Britain, while allowing 85 per cent of her imports to enter duty free, has gradually increased the tariff upon the other 15 per cent until her collections therefrom are equal to $12.17 per capita—almost two and one-half times as great as our own. The United States, which taxes 35 per cent of her imports, has a customs collection of only $5.20 per annum per person. The French collection equals $3.51; the Italian, $3.38; the German, $4.78; and the Belgian, $15.71.

It is an interesting thing to note that the monthly per capita cost of the protective tariff—actual customs assessments—is only about 43 cents per person, while the per capita collection of Belgium is $1.30, and the collection of Great Britain is over $1 per month.

It is not so much a question of the amount of taxes that the people pay to their government, or for public improvements, or even for the protection of trade, as it is of their ability to pay these taxes, and the degree to which taxation is responsible for their financial and cultural well-being.

The average American citizen has a per capita wealth of $3,000 to meet a per capita collection of $5.20 each year. The British have a per capita wealth of $2,500 against a per capita customs collection of $12.17; while the Italian has only an average per capita wealth of $700, and a customs collection not much lower than that of the United States. With that in mind, we can say that the United States has the lowest relative tariff of any of the major powers.

Every country has an economic problem which it alone can solve; and each has adopted a policy which experience and necessity have demonstrated to be the best for it. A modicum of intelligence would dictate that the United States do likewise. It can not be contended that a protective tariff alone means prosperity; but the economic history of our country at least indicates that it is a vital factor. The advocates of a low tariff would have us believe that our enviable position is due solely to the grace of God and natural resources. These have played their part; but if our gates are opened to free products we must either cease developing them or meet the long hours and poor wages of the rest of the world. What would happen to our glassmaker, who receives $32.50 each week, if he had to compete in his own home markets upon an equal basis with the $9.06-per-week Belgian?

The free trader argues that he can successfully do this because he produces proportionately more. This is untrue; for while the average American produces about twice as much as the Belgian, he receives about four times as much wage.

In the woolen industry, the American weaver received in 1927, $31.30 per week; the English, $14.60; and the Italian and French, $6.32. In all industries the American worker receives three times as much as the English and German, four times as much as the Belgian, about five times as much as the French and Italian, and six times as much as the Czechoslovakian.

If we are willing to force the American worker to compete in his own home market with the cheap goods of Europe, then deny to him a protective tariff; strip him of the fruits of his long fight for shorter hours, and strike a deathblow at his high wage scale, which alone makes him the world's greatest consumer of his own and others goods, gives him time for recreation and improvement enjoyed by no other, and has built up for him and his family the highest standard of living ever known to man.

It may be that I am mistaken when I speak of free trade in connection with the Democratic Party. However, I know that its tenets spring from that school of thought which first advocated free trade in the early part of our country's history. Later they abandoned this to declare that they stood for tariff for revenue only; and recently upon this floor I have heard that party committed to the principles of protection but qualified by saying that it is not the same degree of protection sought by the Republican Party. They contend that an evil result of protectionism is increased cost of living, due to high prices made possible by high tariff. Let the facts speak for themselves.

The statistics of the Departments of Commerce and of Labor show that wholesale prices of all commodities in the United States in 1927 were practically the same as in 1922, or 49 per cent higher than in 1913. The cost of living was but 1 per cent higher in 1928 than in 1922, or 71 per cent higher than in 1913, whereas wages have increased considerably more than 100 per cent over those of 1913. The League of Nations' Statistical Bulletin and the International Labor Review of July, 1929, show that our wage increase is greater than the increase in the cost of living, based upon 1914 prices, by 74 per cent, whereas in France it is but 45 per cent, in England 30 per cent, and in Germany 20 per cent. Since the passage of the Fordney-McCumber tariff bill our annual internal-revenue tax has decreased $625,000,000 and our annual income tax $946,000,000. The public debt alone was decreased in 1928 almost twice as much as the total tariff collection.

The Republican Party favors protection for all. "No man liveth unto himself" and no section can continue to prosper at the expense of another. If our manufacturing is damaged by foreign competition, labor and agriculture must suffer proportionately. Products can not be consumed in quantities that can bring the prices required by the producer. This is true, regardless of any tariff wall which may be constructed to protect agriculture. Tariff protection is of advantage to all—agriculture, labor, and industry alike.

A report of the International Economic Conference held in Geneva in 1926 shows that if the British laborer's weekly wage

had a purchasing power of 100 baskets of standard provisions, upon the same basis the German and Frenchman could buy but 60, the Italian and Belgian but 45, while the American could buy 175.

In these simple figures is shown the ease with which the American laborer can produce a living for himself and family. They indicate the wide margin between his wages and the costs of the necessities of life, when compared with others, and disclose the reason why America is the envy of every people under heaven. It is this which has made him the greatest consumer of automobiles, radios, telephones, electric power, luxuries, and necessities in the world. It is this great consuming power that keeps the wheels of our industries going to produce the untold numbers of articles necessary for a high standard of living, and which in turn furnishes the employment that pays a high wage. The desire to make the American consume foreign products instead of those produced by his own hands is what elicited those foreign comments, and the opponents of this bill would aid in doing it.

They ask to lower our tariff in order that they may sell here. Have we protested against their regulating their own affairs and increasing their tariffs in order to protect their people against our competition? Why Great Britain collects two and one-half times as much tariff per capita as the United States, and her total customs collections exceeded ours last year by over $10,000,000. Do we protest because their duties are so high that practically every American manufacturer of any moment has had to establish European factories in order to be able to sell in Europe? Where does this capital go? It is the wholesale emigration of American dollars to Europe. Picture for yourself what would result if our tariff permitted all the other expatriated plants to do likewise.

Mr. President, the annual remittances of Europeans in the United States to relatives back home, together with the actual cash which our tourists spend in Europe, will more than offset the billion dollars favorable trade balance we have created. Yet we are told we must not exercise our sovereign privilege and protect our own people as we think best.

Mr. President, this is not a matter with which we can further experiment. Experience has shown us that under protective tariff we prosper, while under a low tariff prices and industry decline, and poor wages, unemployment, and discontent become the meed of the worker. Our people have reached a stage in social advancement where they will not seek profit from the sweat and toil of humanity in bondage to long hours and low wages. The Senators on the other side of the Chamber said the same things about the Fordney-McCumber bill that they are shouting to high heaven here to-day. Why, the Senator from North Carolina predicted in 1922 that we would have conditions similar to feudalism if the 1922 bill was passed. Is this a feudal nation? He said we would never again hear of Republican prosperity. But we have since had Calvin Coolidge and President Hoover. Can erroneous predictions be time and again repeated and believed like a child's fairy story?

American workers have made this a land of peace and plenty, where their children can laugh through their youth, reach their maturity endowed with education, health, and happiness, and face a future bright with the prospects of lives richer in physical, mental, and spiritual development and opportunities to serve mankind. This you can not jeopardize. You are indeed base betrayers of their faith if you fail to keep this home of theirs a land favored of God.

REFERENCE OF EXECUTIVE MESSAGES

The VICE PRESIDENT. The Chair refers to the appropriate committees sundry Executive messages received from the President of the United States.

RELIEF OF DISABLED WORLD WAR VETERANS

Mr. BROOKHART. Mr. President, I desire to inquire of the chairman of the Committee on Finance in reference to Senate bill 1538, a bill to amend the World War veterans' act, 1924, as amended. That is a bill I introduced on the 17th of June of this year. It provides for removing from the Veterans' Bureau act the provision making it necessary on the part of a veteran to prove that his disability originated in the service. It provides compensation thereby automatically for all ex-soldiers who are disabled.

The bill was referred to the Committee on Finance. I think it ought to go to the Committee on Pensions. It relates to compensation only, and I ask the chairman of the Committee on Finance if he will consent to its being withdrawn from that committee and referred to the Committee on Pensions.

Mr. SMOOT. Mr. President, all bills referring to the Veterans' Bureau, that creating the bureau, and all those affecting veterans of the World War, have been referred to the Committee on Finance, and have been reported from that committee, and passed.

I want to say to the Senator that as long as the tariff bill is before the Senate, the committee feel that they should devote their efforts to the consideration of that bill. Then, I assure the Senator, not only his bill but three or four others now before the committee affecting the Veterans' Bureau will be taken up. Just as soon as we get the tariff bill out of the way we will proceed to the consideration of that legislation. In the meantime, we will have the reports from the departments on the various bills. I would very much prefer to have the Senator's measure remain with the Committee on Finance, which has handled legislation covering that subject in the past. The Senator's bill is before the committee now.

Mr. BROOKHART. I would like to say to the Senator that I have finally reached the conclusion that such bills do not belong in the Finance Committee, but do belong in the Committee on Pensions, and I want to test that question out. Therefore, if we can not agree on it, I mean to move at the earliest opportunity to have my bill transferred to the Committee on Pensions.

Mr. ROBINSON of Indiana. Mr. President, will the Senator yield?

Mr. BROOKHART. I yield.

Mr. ROBINSON of Indiana. I have no desire to take any particular part in this discussion, but since this matter has been suggested, I desire to say that I think something ought to be done at an early date in the interest of disabled veterans. There is not a question in the world but that in the administration of the law the present system of forcing the disabled veteran to trace his disability back to war service is unfair to the veteran. It places the burden of proof on him, when the proof and all means of arriving at the proof are naturally and logically in the hands of the Government. So the veteran is at a tremendous disadvantage, and therefore the situation is very bad; hundreds—and I may say even thousands—of disabled veterans of the World War are not receiving that attention from the Government to which they are justly entitled.

Something in the nature of the bill introduced by the Senator from Iowa should be considered by this body and by the Congress as a whole at the earliest possible moment.

Mr. BRATTON. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from New Mexico?

Mr. BROOKHART. In just a moment I will yield. I think the Finance Committee has enough business on hand without dealing with measures affecting the disabled veterans of the World War.

Within the last few weeks I have visited the hospital for tuberculous veterans at Tupper Lake, N. Y. That is the newest hospital of all, the model for all of them. The hospital is satisfactory so far as construction and arrangements are concerned; it is very fine in those respects. I found 350 veterans in the hospital, 212 of whom are drawing no compensation.

I went to the beds of many of those men dying with tuberculosis. I talked to a veteran, a single man, who was able to get the technical medical proof that his tuberculosis had been caused by the service, and he was drawing his $100 a month compensation. I talked to another veteran, lying in the next bed, who was dying, in worse condition as it were, and by the side of his bed hung a picture of his wife and four children, dependent upon charity, with nothing for their support, that man drawing not one dollar of compensation, because he did not have the technical medical proof to trace the cause of his tuberculosis back to the service.

Mr. President, those men answered the call of the Government when the Government needed them, and the Government must answer their call when they and their families need the Government.

I say the Finance Committee is not the committee to handle these matters. That is the hardest-boiled committee in the Senate. That committee has had all it can do all summer writing a tariff bill it is going to take us all fall to rewrite, and in that situation I mean to move at the earliest opportunity to transfer the consideration of this legislation to the Committee on Pensions, where this subject of humanity gets a human consideration, and not a financial consideration.

Several Senators addressed the Chair.

Mr. SMOOT. Mr. President, I want to take exception to the remarks made by the Senator from Iowa. They are unjust, they are uncalled for. The Finance Committee has reported to this body every piece of legislation that has come from the House of Representatives involving the veterans, and are ready to take up any kind of legislation for the benefit of the veterans. Just as soon as we are through with the tariff bill, the Finance

Committee will have as much time to give to this as will the Committee on Pensions, or even more.

I think the statement of the Senator was so unjust that he ought to recall it.

Mr. BROOKHART. I would be glad to accommodate the Senator if I could in good conscience, but the actions and the laws recommended by this same committee have produced this unjust and inhuman condition I have just described. The Senator from Kentucky [Mr. SACKETT] just told me that a similar condition exists in the tuberculosis hospital in his State.

Mr. SMOOT. Mr. President, I have been a member of the Committee on Finance and a member of the subcommittee from the very inception of legislation looking to the relief of veterans and their dependents. There have been Democratic Senators on those subcommittees, and during the consideration of all of the legislation affecting the veterans no politics has entered the minds of Senators. There may be cases, and always will be cases, which can be cited, just like the one the Senator has cited now.

Mr. BROOKHART. I cited 212 of them.

Mr. SMOOT. I am speaking of the matter as a whole. I am not referring to one man, but speaking of the condition as a whole.

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

Mr. BROOKHART. I yield to the Senator from New Mexico.

Mr. BRATTON. While the general subject of legislation affecting veterans is under discussion I should like to discuss with the chairman of the Committee on Finance a bill in which the veterans residing in the southwestern region of the country are particularly interested.

In 1926 we passed an amendment to the World War veterans' act of 1924, as amended, providing that where a veteran has tuberculosis and reaches the arrested stage, and that fact is determined by the bureau, his compensation shall be fixed at $50 per month. It was stated on the floor of the Senate then that the object sought to be attained was that when a veteran once acquired that status he should occupy it permanently and should not have his compensation changed upward or downward. It was stated, in substance, by the senior Senator from Arizona [Mr. ASHURST] and myself at that time that the mental anxiety and disturbance under which a tuberculous veteran constantly labored occasioned by these repeated examinations and change in compensation was bad; that it was not conducive to his recovery. So the act was amended to fix definitely the amount the veteran would receive, namely, $50 per month, and that it should be permanent.

It was clearly stated and plainly understood what we sought to do. Notwithstanding that, the bureau has construed the act as empowering it to review the file of a veteran within that class, and although he may have occupied such a status as I have mentioned for months or years and been paid the statutory sum during that time, the bureau, either upon a reexamination or without one, may determine that the original diagnosis was erroneous, that the veteran never did have tuberculosis, and consequently that it can take away from him the statutory award of $50 per month.

Mr. BROOKHART. I am informed there are hundreds of those cases, too.

Mr. BRATTON. I am told that in my State alone the policy thus declared and now in process of execution involves more than 700 veterans. The interpretation runs exactly afoul with what we sought to do. Anticipating that result and endeavoring to obviate the situation I introduced a bill during the early days of the session to provide that a veteran once given that status shall never afterwards have his compensation reduced below $50 a month, and that any veteran whose compensation has once been so fixed and subsequently taken away from him shall be restored to that status and compensation. I endeavored repeatedly during the last session of Congress to obtain action by the committee one way or the other upon that bill. What I sought earnestly was to bring the subject matter before the Senate. I was not told until during the closing days of the session that the committee would not report the bill.

I thus remind the chairman of the committee of these facts. I should like to know what his plans are with reference to canvassing the several bills affecting veterans, particularly the one I am discussing now, and letting this one come to the floor of the Senate either with a favorable or unfavorable report in order that the Senate may pass upon the question. Of course I prefer a favorable report. I think the bill justifies it. But if the committee takes a contrary view, then I desire to have the bill reported back here anyway in order that the matter may be submitted to the Senate, thereby enabling the Senate and not the committee to determine the question. A bill of that kind is far too important to remain quiet in committee with no opportunity to submit the question involved to the Senate.

We are now in the extra session preceding the regular session and I should like to have some expression from the chairman of the committee now with reference to his plan in allowing this measure to come to the floor of the Senate at a reasonably early date in order that the Senate may pass upon it. I do not criticize the chairman. I complain against inaction by the committee one way or the other.

Mr. SMOOT. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. BROOKHART. I yield.

Mr. SMOOT. It was the short session of Congress. There was no action taken by the committee on any of the bills that came before it during the short session. I will say to the Senator now that when we come into the regular session in December the committee will be called together and all of the bills affecting veterans' legislation will be considered. I will assure the Senator that if it is not to be a favorable report, and if he desires it, the committee will report the bill unfavorably rather than not report it at all. I am quite sure that that is the position the committee would take. The Senator from Massachusetts [Mr. WALSH] is a member of the subcommittee having the legislation in charge.

Mr. BRATTON. Mr. President, let me say, with the further indulgence of the Senator from Iowa——

Mr. BROOKHART. I yield to the Senator from New Mexico.

Mr. BRATTON. During the last session the Senator from Massachusetts [Mr. WALSH] assured me time and time again that he was in favor of letting any bill with merit come to the floor of the Senate so that we might pass upon the matter here. That is what I seek; that is what I earnestly desire.

Mr. WALSH of Massachusetts. Mr. President——

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Massachusetts?

Mr. BROOKHART. I yield.

Mr. WALSH of Massachusetts. This discussion has opened up a tremendously wide and important subject. That the bills pending before the Finance Committee should be heard and decided I agree.

Legislation dealing with veterans to-day provides compensation only when a veteran can prove to the duly constituted authorities, the Veterans' Bureau, that his disability is traceable to service. We have provided that whether a man can trace his disability to service or not, if he is sick he may be given hospital treatment. We are face to face now with an entirely new and different proposition. If a veteran gets sick from some disease not traceable to the service, shall he be given some compensation? That is a proposition which some of these bills presents. It is a domain into which we have not yet entered. I do not know the particular bill referred to, but I judge from some of the remarks of the Senator from Iowa that he believes we should enter into that domain. I do not object to entering it, but I do say it is fraught with tremendous responsibility and tremendous consequences. The moment we go into that field we must consider giving a pension to everyone who goes to a hospital because he happened to be in service during the war. What of those who do not go to hospitals! That aspect must also be considered.

Another proposition is, What shall we do with those veterans who have exhausted all their remedies with the Veterans' Bureau and have failed to convince the duly established machinery of the Government that they have a compensation or insurance relief case? Many such bills in the nature of appeals to the Senate from the Veterans' Bureau are pending before us. Shall we open the doors or is the better course to be taken an enlargement and expansion of the existing law giving more discretion and more power to the Veterans' Bureau to grant compensation and relief?

The moment we open up the door to these individual cases of appeal I do not hesitate to say there will be a tremendous task before Congress. We will immediately transfer many of the functions of the Veterans' Bureau to the Congress, and we will become a court of appeals from the Veterans' Bureau. General legislation to take care of deserving cases of disabled soldiers is preferable to individual legislation pending for relief.

Mr. President, I say this without any desire in any way to pass judgment upon the bills presented by the Senator from Iowa or the Senator from New Mexico, but to indicate to them both the tremendous questions of a general legislative character that are involved. We are going to be faced in the immediate future, and properly so, with the question of a pension to veterans based on age limit. All these questions possibly can be dealt with by general legislation. Before we go into the domain of dealing with special bills we ought to consider very seriously what definite policy the Government is going to adopt

so that all cases rejected by the Veterans' Bureau may be treated alike.

I confess I have not yet formed any definite opinion upon some of these important aspects of veterans' relief and pensions. I would want to know something about where it will lead and what the result will be. But I do assert what I have outlined for the purpose of impressing upon both of the Senators, whose desire and zeal and earnestness to help the veterans is well known and the subject of commendation, that we are face to face with very serious questions relating to a future general policy that should lead to ends that are definite and fully appreciated. That is a matter which is going to take a good deal of study and a good deal of consideration. I agree that the whole problem should be studied, heard by the committee, and a policy publicly declared.

Mr. BROOKHART. Mr. President, I have given some very deep and careful consideration to the important question raised by the Senator from Massachusetts. It did not take us long to turn loose a large number of war profiteers during the war. It did not take them long to accumulate gigantic fortunes out of the blood money of that war. It will not take me very long to vote some taxes on them to pay the expenses of taking care of our veterans whether their disability was caused by the war or caused since the war. The United States has an income of $90,000,000,000, and yet the wives and children of these men who turned their lives over to the Government must exist on charity out of caution for the fortunes of those profiteers out of the war itself.

Mr. President, the other side of the big question suggested by the Senator from Massachusetts has received my consideration for many years. I have many figures from an economic standpoint to justify everything I have said. After we have given all we will ever give to those soldiers in an economic way we will not have given to them one-half or one-fourth what they are justly entitled to as a result of their services during the war.

Mr. ROBINSON of Indiana, Mr. BRATTON, and Mr. McKELLAR addressed the Chair.

The VICE PRESIDENT. Does the Senator from Iowa yield; and if so, to whom?

Mr. BROOKHART. I promised to yield to the Senator from Indiana.

Mr. ROBINSON of Indiana. Mr. President, I have no disposition at all to criticize the chairman of the Finance Committee or any member of the committee, but I am not entirely in harmony with the statement just made by him when he said, as I understood him to say, that in the last short session of Congress there was not sufficient time to consider the measures affecting the disabled. This is a question of life or death with these veterans. I can imagine nothing that would be more important coming before this or any other legislative body than prompt, especially prompt, consideration of measures of that kind.

Now, with reference to what has been said by the distinguished Senator from Massachusetts [Mr. WALSH], there is no disposition on the part of anybody—certainly a cursory reading of the bill introduced by the Senator from Iowa would suggest no such thing—to attempt to have the Senate act on individual cases. That is not the point at all.

The trouble under the present system is that the Veterans' Bureau, in its administration of the law, places all the responsibility of proving the claim on the veteran. That is to say, the veteran himself must prove, because the burden of proof is placed upon him by the bureau, that there is direct connection between his present disability, which in many cases is very, very serious, and his former service. The Government has the proof. But the Government in hundreds and even thousands of cases has lost the proof. In my own experience with many of these lads who come to see me, as many of them come to see other Members of this body, and with others who write and even wire, it is shown that undoubtedly their disability is connected with the service, but when we go into the matter we find the records are not there. They have been lost. How in the world could a veteran prove service-connected disability under those circumstances?

In my judgment, the American people, and certainly the Congress of the United States representing the American people, intended that every doubt should be resolved in favor of the veteran, and that is just what is not being done. In the interest of economy—an economy which I hold is false, because any economy is false which does injustice to those who wore the uniform of their country and are disabled and thereby incapacitated from competition with their fellows in the world—evidently in the interest of economy of some sort or for some reason which they believe to be a reason of economy, the Veterans' Bureau and all those connected with the Veterans' Bureau resolve every doubt in favor of the Government. I believe the Congress intended, and I am sure the American people intend, that all reasonable doubt should be resolved in favor of the veteran.

I think that is the purpose of the bill introduced by the Senator from Iowa. It is true there should be no abuse in relation to the claims, but a bill of this kind, placing the burden of proof on the Government, is the proper way to proceed. That is the only fair way, the only just way, to treat those who have become disabled and become human wrecks, mental and physical in many cases, in the service of their country.

Mr. McKELLAR. Mr. President——

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

Mr. BROOKHART. I yield.

Mr. McKELLAR. Of course, I do not care to what committee these bills may be referred. That is immaterial, but they ought to go to some committee and they ought to be acted upon promptly.

I desire to say that so far as my State is concerned the veterans have been practically denied the benefits of the act passed for their benefit. The head of the bureau, himself an ex-service man, in charge of regional management at Nashville, has told me that with many claims he has no sympathy, and I may say that in my judgment his administration is a denial to the ex-service men of Tennessee of the benefits of legislation which was enacted in the interest of the soldier.

Our laws need amending, and they need it badly. They are not providing for the ex-service men who were injured in the service. The Senator from Indiana [Mr. ROBINSON] is exactly right. The Veterans' Bureau puts the burden of proof entirely upon the soldier. They will not furnish him the records from The Adjutant General's office. In scores of cases I have been appealed to by ex-soldiers from my State asking me if I could not get for them the records in The Adjutant General's office as to their service, but which could not be obtained by the soldier.

We have turned these sick and disabled ex-service men over to the Veterans' Bureau with instructions to that bureau to look after them. The Veterans' Bureau under the present law, or under their construction of the law, are not doing it. We ought to pass such laws as will force them to do it, and I want to urge whatever committee has these bills under consideration to act upon them and to act upon them at the earliest possible moment. I see no reason why they should not be acted upon, in the Senate at least, at the present session of Congress; indeed, they ought to be acted upon by both branches of Congress at this session. It is very much more important that that be done than that some other bills which we have been fooling with be passed.

Mr. GOFF and Mr. BRATTON addressed the Chair.

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

Mr. BROOKHART. I yield first to the Senator from West Virginia.

Mr. GOFF. Mr. President, it is within the personal knowledge as well as the official experience of every Senator of this body that the veterans of the World War from their respective States are in a helpless situation and condition when it comes to meeting the purely legal doctrine of the burden of proof, for, as stated by the Senator from Tennessee, that is what this entire matter resolves itself into in this issue. From the State of West Virginia hundreds of veterans are coming to me who are met at the very threshold of their claims and requests for relief with the decision of the Veterans' Bureau that their disability is non-service-connected. That is, of course, a question that involves the burden of proof, and this onus is placed upon the veteran. He comes always with the opinion of a private physician that he is obviously and undoubtedly disabled by illness—tuberculosis, as has been suggested here—arising from his service; but the Veterans' Bureau, acting under the law as it now stands, takes the unqualified position in the great majority of cases that the veteran has not met the burden of proof and has not proved to the satisfaction of the bureau that his present ailment was due to his service in the military forces of his country.

This entire matter involves a serious question. The veteran is denied mercy, justice, and compensation because he can not produce a fair preponderance of the evidence relating to his specific ailment. Tuberculosis is an outstanding example of a disability the time of whose origin it is often impossible to establish. Men afflicted with this disability should be relieved of every burden and should receive the benefit of every reasonable doubt.

It is not a matter of criticism of any committee; it is a question of bringing about as soon as possible affirmative and at the same time adequate relief for the men who need it. These men can not when they are in the throes of a critical disability or

ailment await the convenience of Congress for a decision in a matter so important to them. Nothing is so pressing as life and death; and I know, because of my appearance before committees of the Veterans' Bureau and the arguments on this question before those committees, attended by representatives of the American Legion, the very condition in which these ex-soldiers are now finding themselves.

It is true that they can obtain hospitalization, but many of them come to the hospitals in the final throes of their fatal illness without any compensation to maintain them or to afford them the ordinary necessaries and comforts of life while they are there confined, outside of the maintenance and the medical attention which the Government gives them. Many of these men have not, Mr. President, as every Senator within the sound of my voice knows, the money with which to buy the clothing which they need and which the Government does not provide for them.

So I wish unhesitatingly to join in what the other Senators advocating the immediate consideration of this matter have said, for the sooner we bring this far-reaching issue into the open and decide where the burden of proof is, the sooner we shall do our duty and meet responsively the demands of the men who saved this country in time of war.

Mr. BLACK. Mr. President——

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

Mr. BROOKHART. I will yield in just a moment.

A committee will act in almost a minute on any other humanitarian measure; it will quickly report on a proposal to relieve flood sufferers, or even for the relief of victims of a calamity in foreign countries; and yet here are thousands of soldiers who are suffering from great calamities who are neglected. I agree with the Senator from West Virginia. It is not a question of criticizing the committee; I have no desire to criticize the committee; but how these humanitarian measures ever got into the hands of the Finance Committee is beyond my comprehension. This subject belongs to the Pension Committee; it should be considered by men who are studying questions of this kind and who are in sympathy with them, and not by those who are engaged in considering measures affecting the finances of the country. Now, I yield to the Senator from Alabama.

Mr. BLACK. Mr. President, I wish to say to the Senator from Iowa that I agree with him that this question should be considered by the Pensions Committee. As I understood the Senator from Utah, the statement was made that the reason my bill with reference to the ex-soldiers had not been reported out of committee was because I introduced the bill at a short session. At the beginning of the long session I introduced it, and yet it did not come out at the long session, nor did it come out at the short session. A request was made that the bill be reported out, either favorably or unfavorably; and it was also stated that the bill was not with reference to any individual soldier but was with reference to general disabilities of soldiers.

The bill provided that any soldier who served honorably in the World War, and who became permanently injured and totally incapacitated for every duty of life, should receive $50 a month from the Government. The bill was introduced because within my own knowledge many ex-soldiers have died as objects of charity and have been buried as objects of charity.

Since the bill did not come out of the committee, I had intended to do exactly what the Senator from Iowa has done. I expect to reintroduce that bill, and ask that it be referred to the Pensions Committee, because, in my judgment, a committee which is considering questions of that kind rather than a committee which is considering financial questions is the one to which measures affecting ex-service men should go. I expect to reintroduce that bill and, whether it may come from the committee with a favorable or unfavorable report, I expect that the Senate of the United States and the Congress will sooner or later do this small act of justice to the ex-service men. I do not believe that anyone can stand before the American people and defend a denial of the small pittance of $50 a month to an ex-soldier who served honorably in the World War and who is permanently and wholly and incurably incapacitated from every duty of life.

Mr. BROOKHART. Mr. President, I hope we will get some action on these measures, and I now yield the floor.

Mr. BRATTON. Mr. President, the matter just under discussion, in my judgment, is sufficiently important for me to add one further word.

I stated a few moments ago that when the amendment was enacted in 1926 a declaration was made on the floor of the Senate that it was intended to give the veterans coming within its purview a permanent status, with a fixed statutory compensation of $50 per month, and that the bureau should not have the power to review or reconsider those cases and change that compensation upward or downward. That statement has been repeated on the floor of this body without contradiction by any Member of the Senate. It was designed to show the intent of Congress at the time the act was passed. Notwithstanding that, the bureau continues to review some of these cases, in some instances to reduce the compensation and in some to discontinue it in its entirety.

I think, Mr. President, that the policy now being pursued by the bureau should be discontinued until Congress shall have acted one way or the other upon the bill to which I have already adverted. I stated a while ago that the policy now pursued involves more than 700 veterans in my State alone. It also involves a large number in the State of Arizona and a large number elsewhere in the Southwest as well as throughout the country. I want to emphasize what the Senator from West Virginia [Mr. GOFF] has said, that those veterans are virtually helpless. They look to us and Members of the body at the other end of the Capitol.

Mr. President, I feel so strongly upon the subject that I do not intend to remain quiescent while the Veterans' Bureau pursues a policy exactly contrary to what we intended.

I am glad to hear the chairman of the committee say to Members of the Senate, including myself, that at an early date these bills will have consideration at the hands of the committee and that the particular bill in which I am interested will be reported to the Senate in some fashion, so that we may act upon it.

I was not willing to have the subject disposed of without this further word in relation to what I conceive to be one of the most important phases of the entire work being done by the Veterans' Bureau.

EMERGENCY ADJUSTMENTS OF THE TARIFF

Mr. WALSH of Massachusetts. Mr. President, yesterday I presented an amendment which I said I would offer to the amendment proposed by the Senate Finance Committee to the flexible provisions of the pending tariff bill. For the information of the Senate I ask that that amendment may be printed in the RECORD and also that a statement by me explanatory of the amendment be likewise printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment and statement are as follows:

Amendment intended to be proposed by Mr. WALSH of Massachusetts to the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes, viz: Commencing on page 319, line 10, strike out down through line 12 on page 326, and insert in lieu thereof the following:

"SEC. 336. Emergency adjustments of the tariff: (a) In order to provide for the speedy meeting of tariff exigencies, whether occasioned by economic shifts or by unexpected developments in the administration of the tariff or by other causes, the President shall, after such investigation as seems appropriate to him with respect to its thoroughness, make recommendation to the Congress of the change or changes required and submit the same by special message accompanied by the report of the findings of the investigation. Such recommendation may pertain to the rate of duty, or form of the duty, for a single commodity or group of commercially related commodities; to the classification of commodities; and the transfer of any article from the free list to the dutiable list or from the dutiable list to the free list; (b) in ascertaining the extent and character of the exigency as regards any commodity calling for recommendation of changes in the tariff as hereinbefore described, the President, in so far as he finds it practicable and suitable to the occasion, shall take into consideration with respect to domestic articles and with respect to like or similar foreign articles—which are or have been in competition with domestic articles in the United States—the following factors:

"(1) The amount of production of the domestic article, and the recent trend of production, as measured by quantity and value, together with the amount of exports of the domestic article.

"(2) The amount of the total imports by quantity and value of the foreign article, with segregation of the imports from the principal foreign country of origin.

"(3) The total consumption of the commodity in the United States, together with the location and relative importance of the principal markets in the United States for the domestic article and for the imported article.

"(4) The relationship of the commodity, domestic and imported, to other products, if it be used as a raw material or part of the manufacturing supplies of another industry in the United States.

"(5) The conditions of production and marketing of the commodity, domestic and foreign, whether efficiently conducted and whether subject to control tending to monopoly or actually bringing about a commercial condition similar to monopoly.

"(6) Any advantages granted to foreign producers or distributors by a foreign government, or by a corporation or association in a foreign country.

"(7) The recent trend of wholesale prices in the United States of the domestic and imported articles and of the foreign article in the principal country of origin.

"(8) The costs of transportation of the domestic article from the plants or areas of production to the principal markets in the United States which draw their supplies from the plants or areas indicated, and of the foreign article from plants abroad to the principal ports of importation in the United States, and from the principal ports of importation to the principal markets in the United States.

"(9) The disadvantage that the foreign article may have with respect to longer time or uncertainties in making delivery to users in the United States, with numerical expression, if possible, of the amount of such disadvantage.

"(10) The unit costs of production of the domestic and foreign article—averaged for a significant portion of each industry and obtained for a representative and coinciding cost-finding period—either directly ascertained from the records of expenditure for wages, materials, etc., together with the records of the production attained by such expenditure, or indirectly ascertained by scientific deduction from other known facts.

"In all cases there shall be such commentary as may be necessary to bring out the full meaning and significance of numerically expressed facts, whether given in the form of tables or otherwise; and especially a commentary in case there is any question that the domestic and foreign articles compared are not wholly like or similar, but differ materially in quality or grade.

"(c) The investigations assisting the President in formulating his recommendations transmitted to the Congress under this section shall be made by the United States Tariff Commission, and no special message under this section shall be transmitted until such investigation by the commission shall have been made and its report submitted to the President. The commission is authorized to adopt such reasonable procedure, rules, and regulations as may be necessary for the carrying out of investigations.

"(d) The President is authorized to make all needful rules and regulations for the initiation of investigations either by the application of interested persons or otherwise, and generally for governing the execution of the provisions of this section."

STATEMENT EXPLANATORY OF AMENDMENT PROPOSED IN LIEU OF FLEXIBLE TARIFF PROVISIONS

This amendment of the flexible tariff differs from existing law (sec. 315 of the tariff act of 1922) in the following leading particulars:

First. It defines the general character of the statute as an emergency measure, which was the original purpose of the flexible tariff when it was first formulated by the Senate eight years ago. The one really sound reason for having any flexible tariff at all is based on the consideration that exigencies may and do arise from time to time that can not be met by the occasional general revisions of the tariff by the Congress. That point was emphasized in the speech of the Senator from Pennsylvania of to-day, September 26.

Second. It keeps the power of final action respecting the changing of statutory rates of duty, and other tariff changes, in the hands of the Congress. It ends tariff changes by presidential proclamation and ends it, it is to be hoped, permanently. But it does put a certain responsibility upon the President with respect to the initiation of what may result, by the action of the Congress, in tariff changes—new dispositions called for by changing economic circumstances which he in the first instance ascertains.

Third. Under the head of what facts shall be ascertained by the Tariff Commission in assisting the President in making his determinations resulting in a definite recommendation to the Congress with respect to any commodity, all those leading factors are enumerated that the Congress itself takes into consideration in classifying commodities and fixing the rates of duty—and they are enumerated approximately in order of their economic and legislative importance. The actually least used and in most instances least measurable factor of all (costs of production) is enumerated last of all. The partisan assumption that almost all duties are based specifically on differences in costs of production, and that accurate and usable costs of production can always, or usually, be found drops out of the picture.

It is intended that the President shall be given a considerable degree of discretion and control over what kind of an investigation, with respect to length and thoroughness, shall in any given instance be made. Unless in some cases he can short-circuit the investigation almost all of the object of this provision for meeting exigencies would be frustrated, and we should have the same old notorious Tariff Commission delays all over again. On the other hand, some subjects can wait while time is being taken for a full and complete determination of the facts, and the importance of the subject may merit such complete determination. Some small industry being ruined by a shift in foreign competition is in a wholly different situation from the large and widely distributed wool-raising industry, whose duty might need revision in the interest of the manufacturing users of wool and the ultimate consumers of wool and worsted products. It is contemplated that applications for special messages by the President will be made looking toward reductions as well as increases of rates of duty.

RECESS

Mr. SMOOT. I move that the Senate take a recess until to-morrow at 11 o'clock a. m.

The motion was agreed to; and (at 5 o'clock and 28 minutes p. m.) the Senate took a recess until to-morrow, Friday, September 27, 1929, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate September 26 (legislative day of September 9), 1929

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

TO ADJUTANT GENERAL'S DEPARTMENT

Maj. Frederic Vinton Hemenway, Infantry (detailed in Adjutant General's Department), with rank from July 1, 1920.

TO JUDGE ADVOCATE GENERAL'S DEPARTMENT

Capt. Edward Chambers Betts, Infantry (detailed in Judge Advocate General's Department), with rank from July 1, 1920.

TO ORDNANCE DEPARTMENT

First Lieut. William Field Sadtler, Coast Artillery Corps, effective November 8, 1929, with rank from April 1, 1927.

TO CHEMICAL WARFARE SERVICE

Capt. Henry Linsert, Coast Artillery Corps, with rank from June 25, 1920.

First Lieut. Ralph Cobb Benner, Field Artillery (detailed in Chemical Warfare Service), with rank from July 1, 1920.

Second Lieut. William Murlin Creasy, jr., Field Artillery, with rank from June 12, 1926.

PROMOTIONS IN THE ARMY

To be colonels

Lieut. Col. Ben Lear, jr., Cavalry, from September 19, 1929.

Lieut. Col. George Parker Tyner, Field Artillery, from September 19, 1929.

To be lieutenant colonels

Maj. Torrey Borden Maghee, Infantry, from September 19, 1929.

Maj. William Whitehead West, jr., Cavalry, from September 19, 1929.

Maj. Rupert Algernon Dunford, Infantry, from September 24, 1929.

To be majors

Capt. Vincent Nicolas Diaz, Infantry, from September 19, 1929.

Capt. Andres Lopez, Infantry, from September 19, 1929.

Capt. Modesto Enrique Rodriguez, Infantry, from September 24, 1929.

PHILIPPINE SCOUTS

To be major

Capt. Roy Walton Heard, Philippine Scouts, from September 25, 1929.

MEDICAL CORPS

To be colonel

Lieut. Col. Harry Selby Purnell, Medical Corps, from September 20, 1929.

CHAPLAINS

To be majors

Chaplain Edward Larose Branham from September 21, 1929.

Chaplain John Thomas DeBardeleben from September 22, 1929.

Chaplain Samuel Johnson Miller from September 22, 1929.

Chaplain John Thomas Axton, jr., from September 22, 1929.

To be captain

Chaplain John Harold McCann from September 24, 1929.

APPOINTMENTS AND PROMOTIONS IN THE NAVY

Commander Vaughn K. Coman to be a captain in the Navy from the 1st day of July, 1929.

Lieut. Commander David H. Stuart to be a commander in the Navy from the 6th day of June, 1929.

Lieut. Commander John M. Ashley to be a commander in the Navy from the 15th day of June, 1929.

The following-named lieutenant commanders to be commanders in the Navy from the 1st day of July, 1929:

Ewart G. Haas.

Warren L. Moore.

The following-named lieutenants to be lieutenant commanders in the Navy from the 1st day of July, 1929:

Guy W. Clark.

Thomas D. Ross.

Lieut. (Junior Grade) Howard L. Jennings to be a lieutenant in the Navy from the 1st day of July, 1929.

Lieut. (Junior Grade) Walter E. Gist to be a lieutenant in the Navy from the 1st day of August, 1929.

Lieut. (Junior Grade) Thomas T. Beattie to be a lieutenant in the Navy from the 1st day of September, 1929.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 3d day of June, 1929:

Thomas M. Wolverton.	Ralph H. Linsley.
Welford C. Blinn.	Daniel J. Sweeney.
Clifford H. Duerfeldt.	Otho P. Smoot, jr.
John J. Greytak.	Joseph R. Haskin, jr.
Alexander B. Cecil.	George Prifold, jr.

Medical Inspector Abraham H. Allen to be a medical director in the Navy, with the rank of captain, from the 1st day of July, 1928.

The following-named medical inspectors to be medical directors in the Navy, with the rank of captain, from the 1st day of July, 1929:

Harry A. Garrison.	George W. Shepard.
Elmer E. Curtis.	Dallas G. Sutton.

Charles J. Holeman.

Pay Clerk Charles J. Hawkins to be a chief pay clerk in the Navy, to rank with but after ensign, from the 3d day of December, 1927.

HOUSE OF REPRESENTATIVES

THURSDAY, *September 26, 1929*

The House met at 12 o'clock noon and was called to order by the Clerk, Hon. William Tyler Page.

Mr. PAGE. The Clerk will read the following communication from the Speaker.

The Clerk read as follows:

THE SPEAKER'S ROOM,
HOUSE OF REPRESENTATIVES,
September 26, 1929.

The CLERK OF THE HOUSE OF REPRESENTATIVES:

I hereby designate the Hon. EDITH NOURSE ROGERS as Speaker pro tempore for this day.

NICHOLAS LONGWORTH,
Speaker House of Representatives.

Mrs. ROGERS took the chair as Speaker pro tempore.

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

To-day, Gracious Father in Heaven, our memory runs back and kindles our love by reviewing the evidences of divine care. Hope looks forward and is fortified by the mercies which Thou hast prepared for us. Do Thou hear us as we ask Thee to make our love not just a mood but the habit of our souls. Forgive the spirit of our conduct, that so often is marked with pride, selfishness, and willfulness. The gift of Thy only begotten Son is the golden background against which our sins stand out in terrible relief. Oh, how the sense of our failures becomes acute as we think of Him. May we keep striving each day to make the course of our lives one of honorable service, seeking to do what in conception and purpose is courageous and noble. Through Christ our Saviour. Amen.

The Journal of the proceedings of Monday, September 23, 1929, was read and approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States announced that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On June 17, 1929:

H. R. 3317. An act to amend the act entitled "An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1930, and for other purposes."

On June 18, 1929:

H. R. 4016. An act making an appropriation to carry out the provisions of the agricultural marketing act, approved June 15, 1929.

On June 20, 1929:

H. R. 3966. An act to fix the compensation of officers and employees of the legislative branch of the Government.

On June 21, 1929:

H. J. Res. 2. Joint resolution to authorize the President to accept the invitation of the Kingdom of Iceland to participate in the celebration of the one thousandth anniversary of the Althing, and in connection therewith to present to the people of Iceland a statue of Leif Ericsson; and

H. J. Res. 102. Joint resolution making an appropriation for expenses of participation by the United States in the meeting of the International Technical Consulting Committee on Radio Communications to be held at The Hague in September, 1929.

On June 22, 1929:

H. J. Res. 109. Joint resolution authorizing the President to invite the States of the Union and foreign countries to participate in the International Petroleum Exposition at Tulsa, Okla., to begin October 5, 1929.

On June 24, 1929:

H. R. 3671. An act to authorize and direct a survey to be made of the Escambia River and its tributaries, Alabama and Florida.

On June 28, 1929:

H. J. Res. 58. Joint resolution to repeal an act approved March 2, 1929, entitled "An act for the relief of C. C. Spiller, deceased," and to provide for the relief of the estate of C. C. Spiller, deceased.

ADJOURNMENT

Mr. HADLEY. Madam Speaker, I move that the House do now adjourn until Monday next.

The motion was agreed to; accordingly (at 12 o'clock and 5 minutes p. m.) the House adjourned until Monday, September 30, 1929, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

44. A letter from the Secretary of War, transmitting report from the Chief of Engineers on preliminary examination and survey of channel from Galveston Harbor to Texas City, Tex. (H. Doc. No. 107); to the Committee on Rivers and Harbors and ordered to be printed, with illustration.

45. A letter from the Acting Secretary of War, transmitting report from the Chief of Engineers on preliminary examination and survey of Sitka Harbor, Alaska; to the Committee on Rivers and Harbors and ordered to be printed.

46. A letter from the Secretary of War, transmitting report from the Chief of Engineers on preliminary examination and survey of Washington Canal and South River, from the Raritan River at Old Bridge, with a view to eliminating curves and increasing the depth to 12 feet below low-water mark (H. Doc. No. 109); to the Committee on Rivers and Harbors and ordered to be printed, with illustration.

47. A letter from the Secretary of War, transmitting report from the Chief of Engineers on Tickfaw River, La., covering navigation, flood control, power development, and irrigation (H. Doc. No. 110); to the Committee on Rivers and Harbors and ordered to be printed, with illustration.

48. A letter from the Secretary of War, transmitting report from the Chief of Engineers on Boquet River, N. Y., covering navigation, flood control, power development, and irrigation; to the Committee on Rivers and Harbors.

49. A letter from the Secretary of War, transmitting a letter from the Chief of Engineers, United States Army, dated August 2, 1929, together with a report by a board of engineer officers dated June 17, 1929, relating to design of floating plant for use in transporting cargo on inland waterways, with special reference to the Mississippi and Ohio Rivers. This report is supplemental to reports of the previous boards published in House Document No. 857, Sixty-third Congress, second session, and House Document No. 108, Sixty-seventh Congress, first session; to the Committee on Rivers and Harbors.

50. A letter from the Secretary of War, transmitting report from the Chief of Engineers on St. Francis River, Mo. and Ark., covering navigation, flood control, power development, and irrigation; to the Committee on Rivers and Harbors.

51. A letter from the Comptroller General of the United States, transmitting report on the claim of the Chicago, North Shore & Milwaukee Railroad Co. of Highwood, Ill., together with recommendation thereon; to the Committee on Claims.

52. A letter from the Comptroller General of the United States, transmitting report and recommendation concerning the claim of S. Vaughn Furniture Co., Florence, S. C.; to the Committee on Claims.

53. A letter from the Comptroller General of the United States, transmitting report and recommendation to Congress concerning the claim of Margaret Stepp Bown against the United States; to the Committee on Claims.

54. A letter from the Comptroller General of the United States, transmitting report and recommendation to the Congress concerning the claim of Francis B. Kennedy, narcotic agent, Kansas City, Mo.; to the Committee on Claims.