2134. Also, petition of numerous citizens of Chariton County, Mo., urging the enactment of more liberal pension legislation; to the Committee on Invalid Pensions.

2135. Also, petition of numerous citizens of Trenton, Mo., urging the enactment of more liberal pension legislation; to the Committee on Invalid Pensions.

2136. Also, petition of numerous citizens of Carroll County, Mo., urging the enactment of more liberal pension legislation; to the Committee on Invalid Pensions.

2137. Also, petition of numerous citizens of Sullivan County, Mo., urging the enactment of more liberal pension legislation; to the Committee on Invalid Pensions.

2138. By Mrs. McCORMICK of Illinois: Petition from citizens of the State of Illinois, urging the passage of House bill 2562, granting an increase in pensions to Spanish-American War veterans and widows of veterans; to the Committee on Pensions.

2139. By Mr. McCLINTOCK of Ohio: Petition of citizens of Uhrichsville, Dennison, and other towns in Ohio, favoring passage of the Spanish War veterans' pension bill; to the Committee on Pensions.

2140. By Mr. McKEOWN: Petition of Lewis N. Wood and other citizens of Depew and Creek County, Okla., requesting immediate action on Senate bill 476 and House bill 2562, bills providing for increased rates of pension to the men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

2141. Also, petition of J. C. Davis and others, of Bristow, Okla., requesting immediate action on House bill 2562, providing for increased rates of pension to the men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

2142. By Mr. MOREHEAD: Petition filed by Paul Jessen and citizens of Nebraska City, Nebr., urging passage of bill granting pensions and increase of pensions to Spanish-American War veterans; to the Committee on Pensions.

2143. By Mr. PALMER: Petition of John J. Pershing Camp, No. 9, William J. Kelly, commander, Springfield, Mo., and members of the camp, urging the passage of House bill 2562, granting increased pensions to Spanish war veterans; to the Committee on Pensions.

2144. By Mr. FRANK M. RAMEY: Petition of Noah Gullett, 714 South Fifth Street, Springfield, Ill., and 79 other residents of Springfield, Ill., urging the passage of House bill 2562, granting increased pensions to Spanish war veterans and widows of veterans; to the Committee on Pensions.

2145. By Mr. SHREVE: Petition by Mrs. C. C. Spence and numerous citizens of Erie, Pa., asking for the passage of a Civil War pension bill that will increase pensions of the veterans and widows of veterans; to the Committee on Invalid Pensions.

2146. Also, petition by Col. David B. Simpson, commander of Pennsylvania State Soldiers and Sailors' Home, Erie, and a large number of veterans of the Spanish-American War living at the home, asking for the passage of House bill 2562; to the Committee on Pensions.

2147. By Mr. SINCLAIR: Petition of the board of commissioners of the city of Minot, N. Dak., in favor of increasing pensions of veterans of the war with Spain, the Philippine insurrection, and China relief expedition; also, petition by 65 residents of Dickinson, N. Dak., and vicinity, in favor of increasing pensions of veterans of the war with Spain, etc.; also petition by 65 residents of New England, N. Dak., and vicinity, in favor of increasing pensions of veterans of the war with Spain, etc.; to the Committee on Pensions.

2148. By Mr. SMITH of West Virginia: Petition of the Disabled Veterans of the World War, urging that the World War veterans act be amended to extend the presumptive date for tubercular veterans from January 1, 1925, to January 1, 1930; to the Committee on World War Veterans' Legislation.

2149. By Mr. STALKER: Petition of citizens of Elmira, Chemung County, N. Y., urging Congress for the passage of the bills increasing the pension of the Spanish War veterans (S. 476 and H. R. 2562); to the Committee on Pensions.

2150. By Mr. STOBBS: Petition of residents of Worcester, Mass., favoring passage of Senate bill 476 and House bill 2562; to the Committee on Pensions.

2151. By Mr. STRONG of Pennsylvania: Petition of citizens of Punxsutawney, Pa., and vicinity, in favor of increased rates of pension for veterans of the war with Spain; to the Committee on Pensions.

2152. Also, petition of citizens of Punxsutawney, Pa., in favor of increased rates of pension for Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

2153. By Mr. TAYLOR of Colorado: Petition from citizens of Dove Creek, Colo., and vicinity, asking for increase of pensions for veterans of the Spanish-American War; to the Committee on Pensions.

2154. By Mr. THURSTON: Petition signed by 20 citizens of Appanoose County, Iowa, petitioning the Congress to enact legislation increasing the pensions now allowed to Civil War veterans and their dependents; to the Committee on Invalid Pensions.

2155. By Mr. WOLFENDEN: Petition of certain voters of Phoenixville, Pa., urging legislation increasing the pension of all Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

2156. By Mr. WOLVERTON of West Virginia: Petition of citizens of Weston, Lewis County, W. Va.; Linn and Glenville, Gilmer County, W. Va.; Jane Lew and Horner, W. Va.; A. Carl Hughes, Col. Jackson Arnold, Guy B. Young, Capt. D. U. O'Brien, and others, urging Congress to take favorable action of Senate bill 476 and House bill 2562, providing for increase in pension for Spanish War veterans; to the Committee on Pensions.

2157. By Mr. YATES: Petition of Paul Riley, 4449 Jackson Boulevard, Chicago, Ill., urging passage of House bill 2829, granting an increase of pension to veterans of the Civil War; to the Committee on Invalid Pensions.

2158. Also, petition of Mrs. E. B. Snyder, 3521 State Street, and other citizens of Chicago, urging passage of House bill 2829, granting increase of pensions to veterans of the Civil War; to the Committee on Invalid Pensions.

2159. Also, petition of George H. Clapper, 1531 Twenty-ninth and one-half Street, Rock Island, Ill.; Mr. and Mrs. G. C. Pahlow, 726 Beecher Avenue, Galesburg, Ill.; and George W. Sanders, second lieutenant, Company G, Forty-ninth Infantry Iowa Volunteers, Spanish-American War, urging support of House bill 2562, granting pensions and increase of pensions to Spanish-American War veterans; to the Committee on Pensions.

2160. Also, petition of the Woodford County Klan, El Paso, Ill, urging passage of the Robsion-Capper school bill; to the Committee on Education.

2161. Also, petition of A. W. Nielsen, 7041 Wabash Avenue; William A. Windsor, 3916 Prairie Avenue; Oscar W. Rockfield, 1116 East Eighty-second Street, and other citizens of Chicago, urging passage of House bill 2562, granting pensions and increase of pensions to Spanish-American War veterans; to the Committee on Pensions.

2162. Also, petition of Alonzo Gilliland, 1065 West North Street, Galesburg, Ill., and Chris F. Gunther, member Bob Evans Camp, No. 76, 7143 Eggleston Avenue, Chicago, Ill., urging passage of House bill 2562, granting pensions and increase of pensions to Spanish-American War veterans; to the Committee on Pensions.

SENATE

WEDNESDAY, *December 18, 1929*

(Legislative day of Friday, December 13, 1929)

The Senate met at 11 o'clock a. m. in open executive session on the expiration of the recess.

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

The VICE PRESIDENT. The clerk will call the roll.

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

Allen	Gillett	McCulloch	Smith
Ashurst	Glass	McKellar	Smoot
Baird	Glenn	McMaster	Steck
Barkley	Goldsborough	McNary	Steiwer
Bingham	Gould	Metcalf	Stephens
Black	Greene	Moses	Sullivan
Blaine	Grundy	Norbeck	Swanson
Blease	Hale	Norris	Thomas, Idaho
Borah	Harris	Nye	Thomas, Okla.
Brock	Harrison	Oddie	Trammell
Brookhart	Hastings	Patterson	Tydings
Broussard	Hatfield	Phipps	Vandenberg
Capper	Hawes	Pine	Wagner
Caraway	Hayden	Pittman	Walcott
Copeland	Hebert	Ransdell	Walsh, Mass.
Couzens	Heflin	Reed	Walsh, Mont.
Dale	Howell	Robinson, Ind.	Waterman
Dill	Jones	Sackett	Watson
Fess	Kean	Schall	Wheeler
Fletcher	Kendrick	Sheppard	
Frazier	Keyes	Shortridge	
George	La Follette	Simmons	

Mr. LA FOLLETTE. I desire to announce the unavoidable absence of the junior Senator from New Mexico [Mr. CUTTING]. I ask that the announcement may stand for the day.

Mr. HASTINGS. I wish to announce that my colleague the junior Senator from Delaware [Mr. TOWNSEND] is absent on official business. I would like to have this announcement stand for the day.

Mr. HATFIELD. My colleague [Mr. GOFF] is necessarily detained from the Senate.

Mr. SCHALL. My colleague [Mr. SHIPSTEAD] is absent by reason of illness.

The VICE PRESIDENT. Eighty-five Senators have answered to their names. A quorum is present.

As in legislative session,

NOBEL PEACE PRIZE

The VICE PRESIDENT laid before the Senate a communication from the Secretary of State, with an accompanying circular, relative to the Nobel peace prize, which was ordered to lie on the table and to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
Washington, December 14, 1929.

The VICE PRESIDENT,
United States Senate.

MY DEAR MR. VICE PRESIDENT: The Nobel Committee of the Norwegian Parliament has forwarded to the Department of State a number of copies of the committee's circular furnishing information regarding the proposals of candidates for the Nobel peace prize for the year 1930, with a letter requesting that the copies be distributed among the persons in the United States qualified to propose candidates.

Accordingly I have pleasure in transmitting a copy of the circular for the information of the Senate.

I am, my dear Mr. Vice President, very sincerely yours,

HENRY L. STIMSON.

Det Norske Stortings Nobelkemité—Nobel Committee of the Norwegian Parliament

NOBEL PEACE PRIZE

All proposals of candidates for the Nobel peace prize, which is to be distributed December 10, 1930, must, in order to be taken into consideration, be laid before the Nobel Committee of the Norwegian Parliament by a duly qualified person before the 1st of February of the same year.

Any one of the following persons is held to be duly qualified: (a) Members and late members of the Nobel Committee of the Norwegian Parliament, as well as the advisers appointed at the Norwegian Nobel Institute; (b) members of Parliament and members of government of the different States, as well as members of the Interparliamentary Union; (c) members of the International Arbitration Court at The Hague; (d) members of the Council of the International Peace Bureau; (e) members and associates of the Institute of International Law; (f) university professors of political science and of law, of history and of philosophy; and (g) persons who have received the Nobel peace prize.

The Nobel peace prize may also be accorded to institutions or associations.

According to the code of statutes, section 8, the grounds upon which any proposal is made must be stated and handed in along with such papers and other documents as may therein be referred to.

According to section 3, every written work, to qualify for a prize, must have appeared in print.

For particulars, qualified persons are requested to apply to the office of the Nobel Committee of the Norwegian Parliament, Drammensvei 19, Oslo.

As in legislative session,

PETITIONS

Mr. ALLEN presented a petition of 47 citizens of Hutchinson, Kans., praying for the passage of legislation granting increased pensions to Spanish War veterans, which was referred to the Committee on Pensions.

He also presented a resolution adopted by Carter Rader Post, No. 149, American Legion, of Elk County, Kans., favoring the passage of legislation granting increased pensions to Spanish War veterans, which was referred to the Committee on Pensions.

Mr. CAPPER presented petitions numerously signed by sundry citizens of Coffeyville and Topeka, Kans., praying for the passage of legislation granting increased pensions to Spanish War veterans, which were referred to the Committee on Pensions.

Mr. BLAINE presented a petition of sundry citizens of Kenosha, Wis., praying for the passage of legislation granting increased pensions to Spanish War veterans, which was referred to the Committee on Pensions.

Mr. ROBINSON of Indiana presented the petition of members of Sergeant George Berry Camp, No. 10, United Spanish War Veterans, in the District of Columbia, praying for the passage of legislation granting increased pensions to Spanish War veterans, which was referred to the Committee on Pensions.

Mr. KEAN presented petitions of sundry citizens of the State of New Jersey, praying for the passage of legislation granting increased pensions to Civil War veterans and widows of veterans, which were referred to the Committee on Pensions.

He also presented petitions of sundry citizens of the State of New Jersey, praying for the passage of legislation granting increased pensions to Spanish War veterans, which were referred to the Committee on Pensions.

Mr. PHIPPS presented a petition of sundry citizens of Denver, Colo., praying for the passage of legislation granting increased pensions to Civil War veterans and widows of veterans, which was referred to the Committee on Pensions.

Mr. FRAZIER presented the petition of Elizabeth Batchelder and 449 other citizens of Fargo and vicinity, in the State of North Dakota, praying for the passage of legislation granting increased pensions to Civil War veterans and widows of veterans, which was referred to the Committee on Pensions.

Mr. SULLIVAN presented a resolution adopted by the Rotary Club of Sheridan, Wyo., favoring the passage of legislation relieving local golf clubs and other athletic and social clubs from the tax on dues, which was referred to the Committee on Finance.

As in legislative session,

REPORTS OF COMMITTEES

Mr. HEFLIN, from the Committee on Agriculture and Forestry, to which were referred the following bills, reported them each without amendment:

A bill (S. 2322) authorizing the Director of the Census to collect and publish certain additional cotton statistics; and

A bill (S. 2323) authorizing the Director of the Census to collect and publish certain additional cotton statistics.

Mr. FLETCHER, from the Committee on Banking and Currency, to which was referred the bill (S. 684) to amend section 9 of the Federal reserve act, as amended, to authorize the Federal Reserve Board to waive notice by State banks and trust companies of intention to withdraw from membership in a Federal reserve bank, reported it without amendment and submitted a report (No. 64) thereon.

Mr. STEIWER, from the Committee on Banking and Currency, to which was referred the bill (S. 544) authorizing receivers of national banking associations to compromise shareholders' liability, reported it without amendment and submitted a report (No. 65) thereon.

Mr. HEBERT, from the Committee on Banking and Currency, to which was referred the bill (S. 2605) to amend section 9 of the Federal reserve act to permit State member banks of the Federal reserve system to establish or retain branches in foreign countries or in dependencies or insular possessions of the United States, reported it without amendment and submitted a report (No. 66) thereon.

As in legislative session,

ENROLLED BILL PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on December 17, 1929, that committee presented to the President of the United States the enrolled bill (S. 2276) continuing the powers and authority of the Federal Radio Commission under the radio act of 1927, as amended.

As in legislative session,

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. SACKETT:

A bill (S. 2728) for the relief of W. L. Inabnit; to the Committee on Claims.

A bill (S. 2729) to amend section 83 of the Judicial Code as amended; to the Committee on the Judiciary.

A bill (S. 2730) to authorize the construction of a George Rogers Clark memorial lighthouse on the Ohio River at or adjacent to the city of Louisville, Ky.; to the Committee on the Library.

A bill (S. 2731) crediting certain employees with time served as employees of third-class post offices for the purposes of the civil service retirement laws; to the Committee on Civil Service.

By Mr. BROCK:

A bill (S. 2732) granting the consent of Congress to the Highway Department of the State of Tennessee to construct a bridge across the Holston River on projected Tennessee Highway No. 9 in Knox County, Tenn.; to the Committee on Commerce.

By Mr. WAGNER:

A bill (S. 2733) for the relief of Edward J. O'Neil; and

A bill (S. 2734) for the relief of George Beier; to the Committee on Claims.

By Mr. HOWELL:

A bill (S. 2735) for the relief of Oscar R. Wolf; to the Committee on Military Affairs.

A bill (S. 2736) for the relief Benjamin Gonzales (with accompanying papers); and

A bill (S. 2737) for the relief of Miguel Pascual, a Spanish subject and resident of San Pedro de Macoris, Santo Domingo (with accompanying papers); to the Committee on Claims.

By Mr. SHORTRIDGE:

A bill (S. 2738) granting a pension to Stephen Sawyer; to the Committee on Pensions.

A bill (S. 2739) for the relief of Bendix Peter Jensen; to the Committee on Naval Affairs.

By Mr. SWANSON:

A bill (S. 2740) providing for the advancement of Commander Richard E. Byrd, United States Navy, retired, to the grade of rear admiral on the retired list of the Navy; to the Committee on Naval Affairs.

By Mr. DILL:

A bill (S. 2741) for the relief of William M. Wiser; to the Committee on Claims.

A bill (S. 2742) for the relief of David F. Richards, alias David Richards; to the Committee on Military Affairs.

A bill (S. 2743) granting a pension to David E. Lunsford;

A bill (S. 2744) granting a pension to Ferdinand Beyersdorf;

A bill (S. 2745) granting a pension to Rose Burkett;

A bill (S. 2746) granting a pension to R. Duran; and

A bill (S. 2747) granting a pension to Isabelle Lloyd; to the Committee on Pensions.

By Mr. ROBINSON of Indiana:

A bill (S. 2748) granting a pension to Catherine Stiles; to the Committee on Pensions.

A bill (S. 2749) for the relief of Timothy C. Harrington; to the Committee on Claims.

A bill (S. 2750) to authorize the appointment of stenographic reporters in the district courts of the United States; to the Committee on the Judiciary.

By Mr. WHEELER:

A bill (S. 2751) authorizing the issuance of a patent to certain homestead lands to Charles W. Stults; to the Committee on Public Lands and Surveys.

By Mr. WALSH of Montana:

A bill (S. 2752) to provide for the erection of a public building at Sidney, Mont.; to the Committee on Public Buildings and Grounds.

By Mr. COPELAND:

A bill (S. 2753) for the relief of Edward Brooks; to the Committee on Naval Affairs.

A bill (S. 2754) granting an increase of pension to Ellen T. Sivels; to the Committee on Pensions.

By Mr. FRAZIER:

A bill (S. 2755) to provide for restoration to the public domain of certain lands in the State of California which are now reserved for Indian allotment purposes; to the Committee on Indian Affairs.

A bill (S. 2756) for the relief of Capt. Robert B. Woolverton (with accompanying papers); to the Committee on Claims.

By Mr. KEAN:

A bill (S. 2757) to authorize and direct the United States Shipping Board to sell certain property of the United States situated in the city of Hoboken, N. J.; to the Committee on Commerce.

By Mr. CAPPER:

A bill (S. 2758) authorizing the President to reappoint Alexander Carl Strecker, formerly a captain of Cavalry, United States Army, a captain of Cavalry, United States Army (with accompanying papers); to the Committee on Military Affairs.

By Mr. TRAMMELL:

A joint resolution (S. J. Res. 108) to correct an error in the Journal of the Senate of the Sixty-third Congress in the matter of the Civil War claim of Elizabeth R. Nicholls and Joanna L. Nicholls, sole heirs of Joshua Nicholls, deceased, and to authorize the Secretary of the Treasury of the United States to pay the sum of $33,450 to the said Elizabeth R. Nicholls and Joanna L. Nicholls, which was appropriated for them under the bills S. 2810 and H. R. 7140 in the Sixty-third Congress; to the Committee on Claims.

By Mr. HEFLIN:

A joint resolution (S. J. Res. 110) authorizing the President to present, in the name of Congress, a medal of honor to Edward A. Vosseler; to the Committee on Military Affairs.

As in legislative session,

RELIEF OF FARMERS IN STORM AND FLOOD STRICKEN AREAS

Mr. TRAMMELL submitted an amendment intended to be proposed by him to the joint resolution (S. J. Res. 81) for the relief of farmers and fruit growers in the storm and flood stricken areas of Alabama, Georgia, North Carolina, and South Carolina, which was ordered to lie on the table and to be printed.

PRINTING OF THE INTERSTATE COMMERCE ACT, ANNOTATED

Mr. HAWES, as in legislative session, submitted the following concurrent resolution (S. Con. Res. 22), which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there shall be printed and bound 4,700 additional copies of Senate Document No. 166, Seventieth Congress, entitled "Compilation of Federal Laws Relating to the Regulation of Carriers Subject to the Interstate Commerce Act, with Digests of Pertinent Decisions of the Federal Courts and the Interstate Commerce Commission and Text or References to General Rules and Regulations," of which 1,000 copies shall be for the use of the Senate, 2,500 copies for the use of the House of Representatives, 100 copies for the use of the Committee on Interstate Commerce of the Senate, 100 copies for the use of the Committee on Interstate and Foreign Commerce of the House of Representatives, and 500 copies for each of the Printing Committees of Congress.

SUNDAY LAWS IN THE DISTRICT OF COLUMBIA

Mr. McKELLAR. Mr. President, as in legislative session, I ask leave to have printed in the RECORD two letters, one of them from the committee of the Tennessee Methodist annual conference—Mr. A. E. Clements, Mr. John W. Barton, and Mr. Noah W. Cooper—in reference to Sunday laws. Heretofore I have given my views rather elaborately on the subject, and they need not be repeated here; but I desire to have the communications referred to the Committee on the District of Columbia and printed in the RECORD.

There being no objection, the communications were referred to the Committee on the District of Columbia and were ordered to be printed in the RECORD, as follows:

THE METHODIST BENEVOLENT ASSOCIATION,
Nashville, Tenn., December 16, 1929.

Hon. KENNETH MCKELLAR,
Hon. W. E. BROCK,
Senators from Tennessee.

GENTLEMEN: We will greatly appreciate your presentation to the Senate of the resolutions inclosed, and your advocacy of the laws therein indicated.

With every good wish,

NOAH W. COOPER.

NASHVILLE, TENN., *October 31, 1929.*

To the SENATE OF THE UNITED STATES,
Hon. KENNETH MCKELLAR,
Hon. WILLIAM E. BROCK,
Senators, Washington, D. C.

GENTLEMEN: Our Tennessee Methodist annual conference (representing about 90,000 church members) in session at Belmont Methodist Church, Nashville, Tenn., October 19, 1929, adopted an expression of their sentiment, as follows:

"A Sabbath Day kept holy is an absolute necessity for the physical, political, financial, and spiritual safety and progress of every man and nation. America was built by Sabbath keepers. In the building of our church and Nation, the Sabbath was kept in honor as a divine institution of inestimable benefit. To-day our courts and Congress, legislatures and city councils, banks, and many of our stores stop on Sunday, the godly inheritance from our forefathers. But we look with amazement and fear upon the mighty interstate commerce of America that observes no Sabbath; that now runs boldly for pecuniary profit, employing and teaching millions of our people to disregard the Sabbath.

"We know full well that even civil law is of little avail without vigorous and active public sentiment to support it. We beg all of our people by precept and example to teach strict Sabbath observance and thus build anew public sentiment for Sabbath observance.

"We urge our Congress to enact Sabbath observance laws for the District of Columbia, which has no such laws. We hereby urge that our State government require all contractors and employees to strictly observe the Sabbath in the building of roads and highways and other enterprises."

We were appointed a committee to convey to you, through our Senators, the sentiment above expressed. In doing so by this letter we beg to express the hope that you will bring this vital matter into deserved public notice, and secure as speedily as possible in all our interstate commerce, and in the District of Columbia that Sabbath observance so essential to the preservation of our lives, liberties, and properties.

With assurances of our esteem and best wishes and of our prayers that God may guide you all into the wisest use of your mighty powers, we are,

Most respectfully yours,

A. E. CLEMENT,
JOHN W. BARTON,
NOAH W. COOPER,
Committee.

BUILDING FOR THE SUPREME COURT OF THE UNITED STATES

Mr. KEYES. Mr. President, as in legislative session I ask unanimous consent to report back from the Committee on Public Buildings and Grounds without amendment the bill (H. R. 3864) to provide for the construction of a building for the Supreme Court of the United States, and I submit a report (No. 61) thereon. There is very little time left before the Christmas recess and we all know the situation which will confront the Senate directly after that recess.

The bill was reported in the House unanimously by the Committee on Public Buildings and Grounds, passed unanimously by the House without a particle of opposition, and has now been reported unanimously by the Committee on Public Buildings

and Grounds of the Senate. It is an important measure, as we all know, and it seems to me very desirable that we should act on the bill at the present time. I do not imagine that it will lead to any extended debate. In fact, I know of no opposition to it at all. I ask unanimous consent for its present consideration.

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

Mr. NORRIS. Mr. President, I do not know that I have any objection to the bill. I am not familiar with it. I understand that it is a very important measure and might cost the Government a great deal of money. Perhaps it is all right. I am not in any way finding fault with it. But the bill ought to be explained. It ought to be debated just a little bit. I do not want to delay its consideration and I say this only out of respect to the Senator from Maryland [Mr. TYDINGS], who is entitled to the floor on the executive business now being considered by the Senate. I do not want to take him off the floor by asking questions about the bill. It seems to me the bill does not have to be passed to-day. Is not that true?

Mr. KEYES. No; it does not have to be passed to-day, but we have been two or three years in the consideration of the matter.

Mr. NORRIS. Let us dispose of the matter before the Senate, or we will find ourselves, I am afraid, before long without a quorum and I would dislike to have the judicial appointment go over until after the Christmas recess.

The VICE PRESIDENT. Objection being made, the bill will go to the calendar.

As in legislative session,

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had passed the following joint resolutions, in which it requested the concurrence of the Senate:

H. J. Res. 174. Joint resolution making an emergency appropriation for the control, prevention of the spread, and eradication of the Mediterranean fruit fly; and

H. J. Res. 175. Joint resolution to provide additional appropriations for the Department of Justice for the fiscal year 1930 to cover certain emergencies.

As in legislative session,

HOUSE JOINT RESOLUTIONS REFERRED

The following joint resolutions were each read twice by their titles and referred to the Committee on Appropriations:

H. J. Res. 174. Joint resolution making an emergency appropriation for the control, prevention of the spread, and eradication of the Mediterranean fruit fly; and

H. J. Res. 175. Joint resolution to provide additional appropriations for the Department of Justice for the fiscal year 1930 to cover certain emergencies.

As in legislative session,

ANTIMONY PARAGRAPH OF TARIFF BILL

Mr. ODDIE. Mr. President, I submit for publication in the RECORD a brief setting forth important data and observations on paragraph 376 of the tariff bill, the antimony schedule, prepared by Mr. H. P. Henderson, an able and reliable mining engineer and an authority on the subject.

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

The brief is as follows:

SUMMARY

As antimony metal goes mainly into alloys of antimony and lead which are, therefore, an advanced stage of manufacture, the antimony contents of alloys containing lead and more than 1 per cent of antimony should be given equal protection with antimony metal or the duty can be avoided by import of alloys made from antimony metal and lead.

For tariff protection that will assure a domestic industry and definitely give the advantages of real competition as distinguished from foreign monopoly with its disadvantages of wildly fluctuating price and periods of very high price in the American market, one of the following duties is necessary:

A. Four cents per pound specific duty.

B. Four and one-half cents per pound if the price is not over 10½ cents per pound. An amount equal to the difference between the price and 15 cents if the price is over 10½ cents and less than 15 cents per pound.

If the price is 15 cents per pound and over, such antimony shall be exempt from duty.

C. Duty according to the Finance Committee scale, with 3½ cents added to all prices.

D. Duty according to committee scale amended to give ½-cent steps in duty with ½-cent ranges in price, with duties from 4½ cents when the price is not over 10¾ cents to exemption from duty when the price is 14¾ cents. Definition of price as average of last two calendar months instead of the preceding week would probably help both producers and consumers.

So far as can be foreseen, a reduction of more than one-quarter to one-half cent from the duties specified above would result in impracticability of the investment necessary for a domestic antimony smelting industry and continuous competition in the domestic market. The duties specified above would assure such industry and competition. Three-quarters cent lower duties would, so far as foreseeable, render such competition impossible.

LEGISLATIVE POSITION

Under the Fordney-McCumber bill the duty on antimony is 2 cents per pound, and the House of Representatives retained the 2-cent rate. Before the Finance Committee a 4-cent specific duty or a sliding-scale duty moving smoothly from 5 cents when the market price is 10½ cents and below to zero cents (exempt from duty) when the price is 15½ cents and above, were alternatively recommended.

The Finance Committee adopted a "sliding scale" with the duty moving by ½-cent step from 4 cents when the price is 7 cents and below to zero cents when the price is 14 cents and above. On November 11 Senator CONALLY introduced an amendment for a sliding scale in which duty moves smoothly from 4 cents when the market price is 10½ cents and below to zero cents when the price is 14½ cents and above.

These two amendments are printed in the CONGRESSIONAL RECORD for November 11, page 5417, with the debate on pages 5417 to 5420. At the debate on Armistice Day in the last hour before noon adjournment, few Senators were present. Senator CONNALLY'S amendment was defeated by one or two votes. The committee amendment was adopted under an understanding (p. 5420) that it could be reconsidered either in the Committee of the Whole or in the Senate.

REASONS FOR PROTECTION

A tariff on antimony permitting a domestic smelting industry is desirable for the usual reason of labor employment both directly and indirectly through the use of domestic supplies, transportation, etc. Such reason, though important, is not the most important reason in this particular case. A probably much larger benefit would come by moderate prices and fluctuations through even domestic competition instead of Chinese monopoly under which prices have fluctuated wildly and have risen to absurd heights, and from two major sources of supply instead of dependance on one major source in the center of Asia, subject to interruption by Chinese disturbances (now immediately possible) or, in war (an important war material) by interruption of sea traffic across the Pacific. Furthermore, a domestic antimony mining industry can not have a chance of growing without domestic smelting. In debate, Senator CONNALLY put the situation strongly, Senator REED said (p. 5418), "Most of the antimony of the world comes from China. * * * the trouble is * * * the way in which the price is juggled by the Chinese. Every time the price rises a little bit in other countries, that is taken advantage of by the Chinese who control the output of antimony, and they put up their price scandalously. The price of antimony * * * has fluctuated all the way from 4⅛ cents up to 45 cents per pound. There is no corresponding fluctuation that I know of in the whole list of metals which we are compelled to use. What the committee wants to do if it can is to protect the people of the United States against these excessive fluctuations."

The 2-cent difference between 2 cents and 4 cents duty is very small compared with the following fluctuations:

Dates	Prices	Fluctuation
	Cents	*Cents*
July 16, 1924, to Nov. 13, 1924	8. 25–15. 00	6. 75
Feb. 11, 1925, to Apr. 24, 1925	22. 00–11. 00	11. 00
Apr. 24, 1925, to May 12, 1925	11. 00–17. 50	6. 50
Oct. 19, 1925, to Jan. 4, 1926	17. 25–25. 00	7. 75
Jan. 4, 1926, to May 26, 1926	25. 00– 9. 50	15. 50
May 26, 1926, to Aug. 10, 1926	9. 25–16. 75	7. 26

War fluctuations were even greater.

Senator REED said that when the price is very low (p. 5418) "obviously nobody in the United States can produce it * * * and a large duty is deserved."

CHINESE MONOPOLY

Various data regarding the Chinese monopoly are given in Trade Information Bulletin No. 624 of the Department of Commerce, from which quotations below are taken.

"As has been stated, the range of price at which antimony can be profitably produced in China, the cheapness with which the material can be mined and smelted, as well as the large reserves, have placed the Chinese producer in the position to dominate the world market" (p. 21).

These conditions "have militated against the development of deposits in other parts of the world. Possibly due to the instability of price of antimony from a world standpoint and the wide range of these fluctuations, it would appear that the mining of antimony is not as attractive to the miner as that of some other metals" (p. 20).

"From time to time there have been attempts by the merchants in Hankow and Changsha to form an association to control shipments and standardize prices" (p. 21).

For the year 1926 average New York price was 15.9 cents.

"In 1926 a serious attempt was made, with the formation of an organization known as the Skiwangshan Antimony Association. Article I of the agreement stated:

"'Recently the price of antimony regulus has declined. We think that this decline is caused by manipulation of the market in Europe and America. Therefore, we have consulted and organized this association of Skiwangshan antimony firms for the purpose of raising the price of antimony and safeguarding the future of our business.'

"This association was made up of a large number of the Changsha merchants, but did not include all of those dealing in antimony, nor did all the foreign firms lend their support to the association. The scheme failed because the association attempted to maintain the price at approximately 14 to 15 cents per pound c. i. f. New York" (pp. 21–22).

A cost, insurance, and freight price (in bond) of 14 to 15 cents is equivalent to a market price of 16 to 17 cents. (Continuing:)

"This price evidently had allowed the Bolivian and Mexican mining companies to produce at a slight profit, thus materially affecting the world market, and with a recession in price, merchants actually associted in the agreement undersold others within the organization" (p. 22).

Thus the proponents of antimony tariff revision wish to standardize the New York price at about 11.5 or 12 cents (without pegging) or through a range of about 10.5 to 13.5 cents, while the Chinese monopoly wished to standardize price at about 16 to 17 cents. The difference is out of proportion to 2 cents increase in specific duty or a really protective sliding-scale duty averaging 2 cents or slightly more.

The monopoly cited above, which would be illegal in the United States, is harmful in arbitrarily raising the price, and its success for a period followed by failure to continue, is harmful in creating very wide fluctuations.

The last quotation above shows, in the opinion of the Department of Commerce, that antimony production at small price from other sources than China requires a price around 15 cents for small profit. This is true without continuous operation, and continuous competition through protected domestic smelting alone can keep the price within reasonable limits and can keep fluctuations moderate. The recommended tariff protection would enable, through the economies of continuous operation and the mining and smelting-plant improvements thereby justified, a small profit at 11.5 cents average New York price which is no more than the pre-war average price with readjustment of duty.

POLITICAL PRINCIPLES INVOLVED

In the case of many imported commodities that sell at reasonable price in the domestic market there is much opinion that increase in duty will increase the price and such increased cost to consumers may outweigh benefit through increased domestic employment. Antimony does not characteristically sell at a reasonable price. It sells at either too high a price when the monopoly is in effective control or at too low a price while competition that started under the high prices is being eliminated by the monopoly. The Chinese monopoly is free from control by our Government and its laws.

There is little or no political opinion to the effect that monopoly unregulated by law is better than competition. No party or group advocates such a condition and all would consider that such a condition would increase the price to consumers. Conversely, the substitution of competition for monopoly may be expected to decrease the price to consumers, and continuous competition instead of fluctuation between monopoly and competition may be expected to result in elimination of great price fluctuations and a reasonably steady price to consumers. The issue is to a minor extent domestic production versus imports, and to a more important degree continuous competition versus monopoly.

To illustrate this by actual recent history after the very severe post-war deflation with absorption of war stocks in 1923–24, coincident with the great increase in radio-storage batteries from 1923 to 1925, we have the following condition, with China producing about 90 per cent of the world's antimony:

Average annual market prices

		Antimony	Lead
1923	cents	7.81	7.35
1925	do	17.50	8.92
Increase	do	9.69	1.57
Increase	per cent	124	21

A large part of the difference in percentage increase of 21 per cent for lead, a competitive commodity, and 124 per cent for antimony, a non-competitive commodity, may be attributed to the Chinese monopoly. Battery plates are about 93 per cent lead, 7 per cent antimony, and constitute a large use of each metal.

Competition with Chinese antimony started in 1925 and increased to 1928. The effect on prices was as follows:

Antimony, average annual market price

	Cents
1925	17.50
1926	15.91
1927	12.34
1928	10.30
1929 to date (about)	8.60

By 1928 Mexican production had risen to about one-quarter of American requirements, but production cost 11.6 cents delivered New York (Price-Waterhouse audit), or 1.3 cents loss. This production is only now continuing by mining out high-grade ore in the hope that tariff action may permit domestic smelting with protection to insure against shutdown, thereby permitting the economy of continuous operation and giving the advantages of continuous competition.

On the above record it seems almost certain that with cessation of competition the price would rise several cents per pound—much more than a 2-cent increase in duty from 2 to 4 cents that would enable competition to continue.

PRICE FLUCTUATIONS

Inspection of the price changes in 1924–1926 shows a speed and range of fluctuation unequaled in peace time with other metals and very serious to trade. Detailed fluctuations are shown in Table I, the average change in price being about 3 cents every 30 days. War-time fluctuations were even greater, as shown by high and low prices of war years.

Year	Price		Difference
	High	Low	
	Cents	*Cents*	*Cents*
1915	40.0	13.0	27.0
1916	45.0	10.5	34.5
1917	36.0	13.6	22.4

CHINESE AND COMPETING COSTS

Chinese antimony sold for the years 1921 and 1922 at an average price of 5.2 cents in the New York market with a 10 per cent duty in effect or about 4.7 cents price in bond. It is well known that little or no profit was made in these years, and it is reasonably estimated that 4.7 cents represents the cost of Chinese antimony at that time. Since 1923 it is reasonably estimated that this cost has risen 1 cent and that the in-bond cost is now 5.7 cents per pound, or 7.7 cents cost in the New York market with the present 2-cent duty.

It is reasonably estimated that the operating cost of producing antimony in the United States on the Mexican border, if operations can be continuous without forced shut down, can be reduced, after $400,000 to $500,000 capital expenditure with more capital expenditure later, from the 1928 level of 11.6 cents to 9.7 cents. This includes no mining or smelting profit and no write-off of value of the Mexican smelter scrapped or cost of United States smelter built. It is purely a consolidated operating cost. With amortization of new mining and smelting capital requirements, costs may readily amount to 10.7 cents or somewhat higher. Expected average price of 11.5 cents is required to justify domestic smelting and continuous competition with China.

LEVEL OF PROTECTION NECESSARY

The difference between 5.7 cents Chinese costs and 9.7 cents competing operating costs as described above is 4 cents duty required to prevent domestic shutdown forced by Chinese competition. This can be done by 4 cents specific duty.

The sliding-scale duty is a plan whereby the duty is sufficient to give protection to domestic industry against forced shutdown when the price is in the vicinity of cost, with decrease in duty to prevent undue cost to consumers, as the price rises so that profit is being made.

As this is a new tariff principle it probably would not be considered in connection with such a small item as antimony were it not for the fact that the smallness—and desirability of curbing price fluctuations—of antimony make it suitable for a working test, and a tested principle can be more confidently considered for other items at future tariff revisions than an untested principle.

As a sliding-scale tariff, with a certain maximum duty, would automatically result in lower average price than specific duty of such amount, margin of profit to domestic industry would average smaller under the sliding-scale duty than under the specific duty, while there would be more average profit in the imported commodity than in the domestic commodity. This makes it of greater importance that the maximum rate under the sliding scale should wholly balance costs than is the case with specific duty.

With a going industry not requiring capital expenditures in building up to insure strong competition, doubtless there might be no shutdown short of operating loss. If new capital expenditure is required, some incentive of profit is necessary to justify such expenditure. In Senator CONNALLY'S November 11 amendment the 4-cent duty, balancing operating cost with China, is carried 0.8 cent above 9.7 cents estimated operating cost to 10.5 cents, allowing for amortization, so that the domestic and Chinese production would be on an even basis with the price up to 10.5 cents, above which Chinese profits would increase at twice the rate

of domestic profit. From this estimated 0.8 cent mining and smelting operating profit, $500,000 to $1,000,000 new capital expenditure in smelter and mining plant would have to be returned before net profit. With domestic production of 10,000,000 pounds annually or half of domestic antimony metal requirements, 0.8 cent per pound is only $80,000 annually. This is small and uncertain incentive to investment. Less would be impossible.

The proponents of a revised antimony tariff are willing to accept a sliding scale, but they wish to emphasize the necessity that it should be fairly devised to fit actual conditions, otherwise there will be no domestic industry and it will be of no benefit as a test.

MINIMUM REQUIREMENTS FOR SLIDING SCALE

As shown just above, duty of 4 cents at and below 10.5-cent price is a minimum requirement.

An average reduction of duty can not encourage domestic industry. For a domestic industry to exist the duty must average not less than 2 cents, as at present, at the past average price (see Average Prices) of 12.5 cents.

For a duty to be workable there must be a correspondence of each particular market price with a particular "in bond" price, otherwise trade will be seriously hampered and there will be pegging of price.

A specific duty of 4 cents or a sliding-scale duty of 4½ cents at 10½ cents price, with antimony becoming exempt from duty at 15 cents, will assure domestic smelting and continuous competition in the antimony market for many years in the future. As the margin between assured competition and a doubtful situation is not great, it would seem that the national advantage would be promoted by a duty that will assure competition.

THEORY OF FINANCE COMMITTEE DUTY LEVEL

In formulating its sliding scale the committee arbitrarily "takes 10 cents as a reasonable price, and continues the present duty at 2 cents when the price is 10 cents." (Senator REED, p. 5419.) At this level, with 9.7 cents domestic cost and 7.7 cents, duty paid, Chinese cost, there is far from being protection, and this is a fundamentally wrong basis. By dropping the price a very little the Chinese could make a good profit while the domestic industry would suffer a serious loss and would be eliminated.

On page 5419 Senator REED refers to the committee scale as equivalent to 1 cent flat duty, "and as against 1 cent flat provided by the committee." This is a correct interpretation, as at the 12.5 cents average price duty would be 1 cent. Such average reduction can not encourage a domestic industry.

Senator REED (p. 5419) takes the average price of the year 1928 (10.3 cents) as the point for setting duty at 2 cents. He objects (p. 5419) to Senator CONNALLY'S contention that the average 1923–1928 price is a fairer average price, because for the preceding few years the price averaged around 7 cents. Data on average prices are shown in Tables 2, 3, 4, and 5.

AVERAGE ANTIMONY PRICES AND DUTY

As a very high proportion of antimony has been imported and, therefore, paid duty, prices for various years with different duty can only be compared by adjusting duties for the various years to a standard basis. This is done in Table 5 for the 29 years, 1900–1928.

The 1923–1928 6-year average price of 12.44 cents was taken for antimony, because for that normal peace-time period the present 2-cent duty has been in effect and price comparisons can be made directly.

In objecting to the 12½-cent price as an average, Senator REED said (p. 5419): "If you take the last five years, it is true that the price averages around 12½ cents (1924–1928 5-year average was 13.36 cents), but if you take the previous five years there was not one instant in the whole five years when the price got up as high as 10 cents. The average would be about 7 cents."

The average price of the preceding five years, 1919–1923, was 6.94 cents. With adjustment from the 10 per cent duty in effect most of this period to 2-cent duty, the average price would have been 8.4 cents. In the years 1920 and 1923 the high price reached 10 cents or more, and if 2-cent duty had been in effect in 1919, 10 cents would also have been exceeded by the high price of that year, leaving only the years 1921 and 1922 when the high annual price would not have exceeded 10 cents.

The period 1919–1922 is an exceptional period for the following reason: The war-time consumption of antimony was much greater than the peace consumption. Prices rapidly rose to as high as 45 cents and averaged 27.8 cents for 1915 and 1916. Under stimulus of such high prices, production increased even more than demand, as reflected by the drop in average price before the end of the war from 20.7 cents, 1917 average, to 12.5 cents, 1918 average. With the sudden end of the war very large stocks remained on the market that were not absorbed until 1923, with fall in average price to 8.16 cents in 1919 and 4.92 cents in 1921. The war inflation and postwar deflation of antimony were both more severe than with almost any other commodity. The 1919–1922 average price was the direct result of the high average war price, and can not reasonably be considered except in connection with war prices.

The following comparison of antimony prices during war and post-war periods is interesting:

Period	Years	Average price	
		In bond	If 2 cents duty
		Cents	*Cents*
1914–1918	5	17.5	19.5
1919–1922	4	6.1	8.1
1914–1922	9	12.4	14.4

And the following comparison of average prices by periods during the last 29 years shows that 12.5 cents is not an excessive price under 2 cents average duty under either pre-war or present conditions. It is approximately the average price.

Period	Years	Average price	
		In bond price	Market price if 2 cents duty
		Cents	*Cents*
1900–1913	14	9.45	11.45
1914–1922	9	12.44	14.44
1923–1928	6	10.44	12.44
1900–1928	29	10.60	12.60

The above calculations refer to prices as changed by change in duty only, without effect of competition. Under a duty that would stimulate competition such competition would be expected to reduce average prices.

Under the average annual prices for the 29 years 1900–1928, inclusive, as shown in Table 1, with the Finance Committee amendment in effect 4-cent duty would have been in effect no year, and not even a single week, 3.5-cent duty but one year, and duty of 3 cents or over but five years. Antimony would have been exempt from duty six years. Under Senator CONNALLY'S amendment antimony would be exempt from duty six years and 4 cents duty would have been reached six years.

At the high prices of each year exemption from duty would have been reached in 11 years under both the Finance Committee's amendment and Senator CONNALLY'S amendment.

At the low prices of each year, under the Finance Committee's scale, 4 cents duty would have been attained in no year, 3.5 cents duty would have been attained only in the three years 1921, 1922, and 1923, though two pre-war years would be close to 3.5 cents duty. In view of the fact that half of this period is on pre-war price basis it is apparent that the 1921–1923 period was entirely abnormal, and consumers can not expect repetition of such low prices.

The effect on operating profits at 9.7 cents estimated domestic operating cost of a 2-cent specific duty of the Finance Committee amendment, and of Senator CONNALLY'S November 11 amendment had each been in effect during the last 29 years (but without effect of competition of price), is shown in Table 6.

Under the average prices of the last 29 years, domestic operations would have shown an operating loss averaging 1.4 cents per pound for 11 years under a 2-cent duty; loss averaging 0.9 cent for 8 years under the Finance Committee amendment; and loss averaging 1.1 cents for 2 years under Senator CONNALLY'S November 11 amendment. There were seven years of high prices in this period. Excluding these 7 years, estimated operating profit for the remaining 22 years would have been 0.04 cent per pound under 2-cent duty, 0.28 cent per pound under the Finance Committee's amendment, and 0.88 cent per pound under Senator CONNALLY'S amendment. During the seven years of high prices operating profit would be 11.8 cents per pound under the 2-cent duty, 9.8 cents per pound under the Finance Committee amendment, and 9.9 cents per pound under Senator CONNALLY'S amendment. These figures take no account of the effect of competition. With the small estimated operating profit under the 2-cent duty and Finance Committee amendment, the industry would probably not be in operation and prices would not be reduced through competition. Under Senator CONNALLY'S amendment prices would probably be much reduced by competition. The amount and irregularity of operating profit under the three duty levels discussed show no incentive to new capital investment under 2 cents duty or the committee amendment, and slight incentive under Senator CONNALLY'S amendment. The original recommendations of 4 cents spe-

cific duty or a sliding scale from duty exemption at 15½ cents to 5 cents duty at 10.5 cents price would offer moderate incentive to the new capital investment so that the competition would be definitely assured.

PEGGING OF PRICE

Senator REED contended (p. 5419) that Senator CONNALLY'S amendment would leave the effect of pegging the price at 14½ cents. This must be an assumption, natural unless the effect is examined in detail, that if the duty decreases 4 cents while the price increases 4 cents the difference is zero which is pegging. We are here actually taking the difference between a minus 4 and a plus 4, which is 8, not zero. In a scale in which the duty moved with the price so that there was 4 cents reduction in duty with 4 cents reduction in price, the difference would be zero, and the in-bond price would be pegged through 4 cents movement in duty. In Senator CONNALLY'S scale the change works the other way, and there is a smooth gradual change of 8 cents in in-bond price with 4 cents change in market price.

In the committee's scale there is 11 cents change in in-bond price with 7 cents change in market price. Neither scale pegs the price at one particular point. For pegging there must be a point or points at which the in-bond price does not move evenly with the market price, or vice versa. This does not occur in Senator CONNALLY'S scale, but ½-cent pegs do occur at the eight points of duty changes in the committee scale. This is illustrated in Table 7, which shows the relation, by changes, of a fraction of a cent of market price in in-bond price and duty under the two scales from 14½ cents price where duty is zero in both cases, 14 cents price where duty is one-half cent in both cases, to 10½ cents market price where at least 4 cents duty is necessary for a possible domestic industry.

Several points of pegging are shown in the committee scale. For example, if the price is 10½ cents, with value of 8½ cents in bond, it would be to the advantage of all holders of Chinese antimony in bond to withhold all their antimony from the market for two or three weeks until the price rose one-half cent with nominal sales, when all antimony would be imported from bond at one-half cent lower duty, and the price would then be allowed to sag to 10½ cents, when real sales could be made at one-half cent additional profit and one-half cent reduction in tariff protection and tariff revenue.

CONSUMERS' ATTITUDE

In any sliding scale that is sufficiently protective there is the following objection from the standpoint of consumers, besides objection to the half-cent step as above. If antimony is bought in Shanghai at a certain price by an American consumer to be delivered, say, two months later, and the New York price at time of delivery should have risen or fallen a certain amount, the speculative profit or loss to consumer would be double such amount. Thus if the change in price is 0.6 cent, the change in value in the New York market would be 1.2 cents. However, this is not serious when it is considered that the effect of competition is to stabilize the price and that fluctuations averaged nearly 3 cents monthly in 1924, 1925, and 1926, and that under such conditions a purchaser of antimony in Shanghai could not tell within 3 cents what it would be worth on delivery in New York. It seems to be true, nevertheless, that consumers would prefer a 4-cent specific duty to a sliding-scale duty that would give equal protection in eliminating this uncertainty. Four cents specific duty would eliminate the above tendency to minor fluctuations and would be as effective in eliminating larger fluctuations through competition as an equally protective sliding-scale duty.

H. P. HENDERSON.

TABLE 1.—*Illustrating speed of antimony price fluctuations*

Date	Price	Change in price	Days elapsed	Rate of price change per month
	Cents	*Cents*		*Cents*
July 16, 1924	8.25			
Nov. 13, 1924	15.00	+6.75	120	+1.69
Dec. 18, 1924	14.06	−.94	35	−.81
Jan. 2, 1925	18.00	+3.94	15	+7.88
Jan. 27, 1925	16.75	−1.25	25	−1.50
Feb. 11, 1925	22.00	+5.25	15	+10.50
Apr. 24, 1925	11.00	−11.00	72	−4.58
May 12, 1925	17.50	+6.50	18	+10.80
June 4, 1925	16.00	−1.50	23	−1.96
July 8, 1925	19.00	+3.00	34	+2.65
July 20, 1925	16.50	−2.50	12	−6.25
Aug. 11, 1925	18.18	+1.68	22	+2.30
Sept. 1, 1925	16.75	−1.43	21	−2.04
Oct. 19, 1925	17.25	+1.50	48	+.94
Jan. 4, 1926	25.00	+7.75	77	+3.12
May 25, 1926	9.50	−15.50	142	−3.28
Aug. 10, 1926	16.75	+7.25	76	+2.86
Nov. 4, 1926	12.75	−4.00	85	−1.41
Total		81.74	840	
Average, 28 months				2.92
Average, Dec. 18, 1924–May 26, 1926, 17 months				3.60

TABLE 2.—*High, low, and average annual prices of six metals, 1923–1928*

Year	Antimony	Copper	Lead	Zinc	Tin	Pig iron
	Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Dollars*
1923—High	10.00	17.25	8.50	8.00	51.50	31.44
Low	6.25	12.45	5.67	5.75	37.50	22.49
Average	7.81	14.61	7.35	6.66	42.71	27.15
1924—High	17.50	14.90	10.05	7.85	59.00	24.13
Low	8.25	12.12	6.62	5.65	40.00	20.11
Average	10.77	13.16	8.10	6.35	50.20	21.87
1925—High	25.50	15.10	10.75	8.90	64.50	23.24
Low	11.00	13.15	7.30	6.75	50.00	19.72
Average	17.50	14.16	8.92	7.66	57.90	21.32
1926—High	25.00	14.35	9.20	8.75	72.50	22.31
Low	9.50	13.25	7.45	6.70	58.50	20.18
Average	15.91	13.93	8.25	7.37	65.30	21.06
1927—High	15.50	14.12	7.65	7.00	71.00	20.16
Low	10.25	12.37	5.95	5.60	56.12	18.37
Average	12.34	13.05	6.52	6.25	64.37	19.35
1928—High	11.37	16.37	6.40	6.35	57.75	19.06
Low	9.25	13.87	5.72	5.40	45.75	17.78
Average	10.30	14.68	6.14	6.03	50.46	18.32
1923–1928:						
Average high	17.48	15.35	8.76	7.81	62.71	23.37
Average low	9.08	12.87	6.45	5.97	47.98	19.77
Average	12.44	13.93	7.55	6.72	55.16	21.51
1904–1913:						
High	27.00	26.00	6.12	7.50	51.05	
Low	6.00	11.10	3.35	4.00	25.75	
Average	9.81	15.36	4.55	5.64	36.48	16.27
May, 1929, average	9.00	17.77	6.76	6.62	44.03	18.50

TABLE 3.—*High, low, and average prices of six metals 1923–1928*

[In percentage of average 1923–1928 price of each metal]

Year	Antimony	Copper	Lead	Zinc	Tin	Pig iron	Average of last 5 metals
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
1923—High	80.4	123.8	112.5	119.1	93.2	146.4	119.0
Low	50.3	89.5	75.1	85.6	67.9	104.6	84.5
Average	62.8	105.0	97.3	99.2	77.4	126.1	101.0
1924—High	140.5	106.9	132.2	116.9	106.9	112.1	115.2
Low	66.3	87.0	87.6	84.1	72.5	93.6	85.0
Average	86.6	94.5	107.1	94.5	91.0	101.9	97.8
1925—High	204.6	107.5	142.4	132.5	116.8	108.1	121.5
Low	88.5	94.9	96.6	100.4	90.6	91.8	94.8
Average	140.7	101.7	118.1	114.0	105.0	98.2	107.4
1926—High	201.0	103.0	122.0	130.2	131.2	103.8	118.0
Low	76.4	95.1	98.6	99.8	105.8	93.8	98.6
Average	128.0	100.0	109.2	109.8	118.2	98.0	107.0
1927—High	124.5	101.3	101.3	104.2	128.6	93.7	105.8
Low	82.2	88.9	78.7	83.4	101.8	85.5	87.7
Average	99.2	93.8	86.3	93.0	116.4	90.0	95.9
1928—High	91.5	117.6	84.8	94.5	104.6	98.8	100.1
Low	74.4	99.6	75.6	80.4	86.5	82.7	85.0
Average	92.8	105.2	81.2	89.9	91.3	85.4	90.6
1923–1928:							
Average high	140.8	110.1	116.0	116.3	113.7	108.9	113.0
Average low	73.1	92.4	85.3	88.9	87.0	92.0	89.1
Average	100.0	100.0	100.0	100.0	100.0	100.0	100.0
May, 1929, average	72.3	127.4	89.5	98.5	79.9	86.0	96.3

TABLE 4.—*High, low, and average prices of six metals, 1923–1928*

[In percentage of average, 1904–1913 prices]

Year	Antimony	Copper	Lead	Zinc	Tin	Pig iron	Average of last 5 metals
	Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*	*Per cent*
1923—High	102.0	112.8	186.5	141.8	141.0	193.5	151.5
Low	63.9	81.2	124.2	102.0	102.6	138.3	109.7
Average	79.8	95.2	161.2	118.0	117.0	166.9	131.7
1924—High	178.5	97.0	221.0	139.1	161.4	148.3	153.4
Low	84.1	79.0	145.1	100.1	109.6	123.6	111.5
Average	136.6	85.8	177.7	112.5	137.6	134.6	129.6
1925—High	260.0	97.4	236.0	157.8	176.5	143.0	162.1
Low	112.2	85.8	160.0	119.5	137.0	121.3	124.7
Average	178.5	92.5	196.0	135.7	158.5	129.8	142.5
1926—High	255.5	93.5	202.2	155.1	198.2	137.0	157.2
Low	97.0	86.4	163.1	118.9	160.0	123.9	130.5
Average	162.5	90.8	181.0	130.8	178.5	129.5	142.1
1927—High	158.0	92.0	168.0	124.1	194.4	123.8	140.5
Low	104.7	80.6	130.2	99.3	153.7	113.0	115.4
Average	126.0	85.1	143.0	110.8	176.0	118.9	126.8
1928—High	116.0	106.7	140.5	112.5	158.0	130.5	129.6
Low	94.5	90.4	125.4	95.8	130.8	109.2	110.3
Average	115.0	95.4	135.5	107.0	138.0	112.9	117.8
1923–1928:							
Average high	178.3	99.8	192.4	138.4	171.6	146.0	149.0
Average low	92.7	83.9	141.3	105.9	132.3	121.5	117.9
Average	131.4	90.8	165.6	119.1	150.9	132.1	131.7
May, 1929, average	91.8	115.6	148.5	117.5	120.5	113.8	123.2

TABLE 5.—*Average annual prices 1900 to 1928*

[Calculation of market prices for years 1900-1928, under assumption that duties proposed November 11 were in effect]

Year	Average market price	Actual duty	Price in bond	Under Finance Committee amendment		Under Senator Connally's Nov. 11 amendment	
				Market price	Duty	Market price	Duty
	Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*
1900	10.80	0.75	10.05	11.5	1.5	12.2	2.2
1901	10.38	.75	9.63	11.1	1.5	12.1	2.5
1902	9.94	.75	9.44	11.1	1.7	11.9	2.5
1903	7.72	.75	6.97	9.5	2.5	10.6	3.7
1904	7.78	.75	7.03	9.5	2.5	10.7	3.7
1905	11.68	.75	10.83	12.5	1.7	12.7	1.9
1906	22.85	.75	22.10	22.1	.0	22.1	.0
1907	17.03	.75	16.28	16.3	.0	16.3	.0
1908	8.56	.75	7.81	10.0	2.2	11.1	3.3
1909	8.27	.75	7.52	10.0	2.5	11.0	3.5
1910	2.24	1.5	6.74	9.9	2.2	10.6	3.9
1911	7.48	1.5	5.98	9.0	3.0	10.0	4.0
1912	7.63	1.5	6.13	8.8	2.7	10.1	4.0
1913	7.43	1.5	5.93	8.9	3.0	9.9	4.0
1914	8.53	.8	7.73	9.9	2.2	11.1	3.4
1915	29.52	2.7	26.8	26.8	.0	26.8	.0
1916	25.33	2.3	23.0	23.0	.0	23.0	.0
1917	20.73	1.9	19.8	18.8	.0	18.8	.0
1918	12.55	1.1	11.4	12.4	1.0	12.9	1.5
1919	8.16	.7	7.5	10.0	2.5	11.0	3.5
1920	8.38	.7	7.7	9.9	2.2	11.1	3.4
1921	4.92	.5	4.4	7.9	3.5	8.4	4.0
1922	5.42	.7	4.7	7.9	3.2	8.7	4.0
1923	7.81	2.0	5.81	8.8	3.0	9.2	4.0
1924	10.77	2.0	8.77	10.8	2.0	11.7	2.9
1925	17.50	2.0	15.50	15.5	.0	15.5	.0
1926	15.91	2.0	13.91	14.1	0.2	14.2	0 3
1927	12.34	2.0	10.34	11.8	1.5	12.4	2.1
1928	10.30	2.0	8.30	10.3	2.0	11.4	3.1

NOTE.—Calculation does not include effect of competition in reducing price. Under 2 cents duty, market price would be 2 cents higher than in-bond price.

TABLE 6.—*Market price and profit to domestic industry, 1900–1928, assuming 2-cent duty, Finance Committee amendment, and Connally amendment in effect during those years*

Year	Average in-bond price	If 2-cent duty		If Finance Committee amendment		If Connally amendment	
		Market price	Profit	Market price	Profit	Market price	Profit
	Cents	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*	*Cents*
1900	10.05	12.0	2.3	11.5	1.8	12.2	2.5
1901	9.63	11.6	1.9	11.1	1.4	12.1	2.4
1902	2.44	11.4	1.7	11.1	1.4	11.9	2.2
1903	6.97	9.0	−.7	9.5	−.2	10.6	.9
1904	7.08	9.0	−.7	9.5	−.2	10.7	1.0
1905	10.83	12.8	3.1	12.5	2.8	12.7	3.0
1906	22.10	24.1	14.4	22.1	12.4	22.1	12.4
1907	16.28	18.3	8.6	16.3	6.6	16.3	6.6
1908	7.81	9.8	.1	10.0	.3	11.1	1.4
1909	7.52	9.5	−.2	10.0	.3	11.0	1.3
1910	6.74	8.7	−1.0	9.9	.2	10.6	.9
1911	5.98	8.0	−1.7	9.0	−.7	10.0	.3
1912	6.13	8.1	−1.6	8.8	−.9	10.1	.4
1913	5.93	7.9	−1.8	8.9	−.8	9.9	.2
1914	7.73	9.7	.0	9.9	.2	11.1	1.4
1915	26.8	28.8	19.1	26.8	17.1	26.8	17.1
1916	23.0	26.0	15.3	23.0	13.3	23.0	13.3
1917	18.8	20.8	11.1	18.8	9.1	18.8	9.1
1918	11.4	13.4	3.7	12.4	2.7	12.9	3.2
1919	7.5	9.5	−.2	10.0	.3	11.0	1.3
1920	7.7	9.7	.0	9.9	.2	8.4	−1.3
1921	4.4	6.4	−3.3	7.9	−1.8	8.7	−1.0
1922	4.7	6.7	−3.0	7.9	−1.8	9.8	.1
1923	5.21	7.8	−1.9	8.8	−.9	9.8	.1
1924	8.77	10.8	1.1	10.8	1.1	11.7	2.0
1925	15.50	17.5	7.8	15.5	5.8	15.5	5.8
1926	13.91	15.9	6.2	14.1	4.4	14.7	5.0
1927	10.34	12.3	2.6	11.8	2.1	12.4	2.7
1928	8.30	10.3	.6	10.3	.6	11.4	1.7

TABLE 7.—*Relation of market prices and in-bond prices, showing ½-cent pegs in committee wording*

Market price	Under Finance Committee amendment		Under Senator Connally's Nov. 11 amendment	
	Duty	In-bond price	Duty	In-bond price
Cents	*Cents*	*Cents*	*Cents*	*Cents*
10.5	2.6	8.5	4.0	6.5
10.6	2.0	8.6	3.9	8.7
10.7	2.0	8.7	3.8	6.9
10.8	2.0	8.8	3.7	7.1
10.9	2.0	8.9	3.6	7.3
11.0	2.0	9.0	3.5	7.5
11.1	1.5	9.6	3.4	7.7
11.2	1.5	9.7	3.3	7.9

TABLE 7.—*Relation of market prices and in-bond prices, showing ½-cent pegs in committee wording*—Continued

Market price	Under Finance Committee amendment		Under Senator Connally's Nov. 11 amendment	
	Duty	In-bond price	Duty	In-bond bond
Cents	*Cents*	*Cents*	*Cents*	*Cents*
11.3	1.5	9.8	3.2	8.2
11.4	1.5	9.9	3.1	8.3
11.5	1.5	10.0	3.0	8.5
11.6	1.5	10.1	2.9	8.7
11.7	1.5	10.2	2.8	8.9
11.8	1.5	10.3	2.7	9.1
11.9	1.5	10.4	2.6	9.3
12.0	1.5	[1]10.5	2.5	9.5
12.1	1.0	11.1	2.4	9.7
12.2	1.0	11.2	2.3	9.9
12.3	1.0	11.3	2.2	10.1
12.4	1.0	11.4	2.1	10.3
12.5	1.0	11.5	2.0	10.5
12.6	1.0	11.6	1.9	10.7
12.7	1.0	11.7	1.8	10.9
12.8	1.0	11.8	1.7	11.1
12.9	1.0	11.9	1.6	11.3
13.0	1.0	[1]12.0	1.5	11.5
13.1	.5	12.6	1.4	11.7
13.2	.5	12.7	1.3	11.9
13.3	.5	12.8	1.2	12.1
13.4	.5	12.9	1.1	12.3
13.5	.5	13.0	1.0	12.5
13.6	.5	13.1	.9	12.7
13.7	.5	13.2	.8	12.9
13.8	.5	13.3	.7	13.1
13.9	.5	13.4	.5	12.3
14.0	.5	[1]13.5	.5	13.5
14.1	.0	14.1	.4	13.7
14.2	.0	14.2	.2	13.9
14.3	.0	14.3	.2	14.1
14.4	.0	14.4	.1	14.3
14.5	.0	14.5	.0	14.5

[1] Tendency to pegging of price at these points in Finance Committee's scale. None at any point in Senator Connally's Nov. 11 amendment.

TABLE 8.—*Estimated operating profit and loss under low prices reached each year adjusted to give effect to duties proposed November 11*

Year	Under Finance Committee scale		Under Senator Connally's Nov. 11 amendment	
	Chinese	Domestic	Chinese	Domestic
1900	3.6	1.3	3.6	2.2
1901	3.8	1.3	3.8	2.3
1902	2.8	.8	2.8	1.8
1903	.6	−.7	.6	.6
1904	.6	−.7	.6	.6
1905	1.6	.1	1.6	1.2
1906	7.6	4.1	7.6	4.2
1907	2.8	.8	2.8	1.8
1908	1.6	.1	1.6	1.2
1909	1.5	.0	1.5	1.1
1910	.3	−.7	.3	.3
1911	−.3	−1.3	−.3	−.3
1912	−.6	−1.6	−.6	−.6
1913	−1.2	−2.0	−1.2	−1.2
1914	−.9	−1.7	−.9	−.9
1915	6.1	3.1	6.1	3.4
1916	3.8	1.3	3.8	2.3
1917	6.6	3.3	6.6	3.7
1918	1.2	−.3	1.2	1.0
1919	.2	−.8	.2	.2
1920	−1.0	−1.8	−1.0	−1.0
1921	−1.7	−2.2	−1.7	−1.7
1922	−2.0	−2.5	−2.0	−2.0
1923	−1.5	−2.0	−1.5	−1.5
1924	−.5	−.8	.5	.5
1925	3.3	1.3	3.3	2.0
1926	1.8	.0	1.8	1.3
1927	2.5	.5	2.5	1.7
1928	1.5	.0	1.5	1.1

NOTE.—Committee scale shows 14 years of domestic losses and larger domestic than Chinese losses. Senator Connally's amendment shows 8 years of domestic loss and equal domestic and Chinese operating losses.

As in legislative session,

NEW YORK'S CANAL SYSTEM

Mr. COPELAND. Mr. President, I ask leave to have printed in the RECORD an article published in the Grain World, of Chicago, Ill., under date of October 9, 1929, entitled "New York's Canal System," by Earle W. Gage, of Ashville, N. Y.

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

[From the Grain World, Chicago, Ill., October 9, 1929]

NEW YORK'S CANAL SYSTEM—FAMOUS EASTERN WATERWAY INSURES LEADERSHIP OF BUFFALO IN AMERICAN GRAIN TRADE

By Earle W. Gage, Ashville, N. Y.

For more than a century the New York Barge Canal has been the football of petty, partisan politics. Now, in the age of railroads and airlines, this oldest American system of transport promises to solve a

perplexing problem and to blaze the trail to open tidewater transport facilities which some 40,000,000 people, residing in the 22 Midwestern States, have been demanding of Uncle Sam. Engineers agree that this canal, developed to meet present-day demands, insures for all time to the American people an all-American waterway to the Atlantic.

The original Erie Canal, which was opened for traffic on October 26, 1825, opened the way to an entirely new era in the development of the territory along its route, and was directly responsible for the expansion of the new country westward, across the plains to the Pacific. Immediately New York State assumed a commercial supremacy through the establishment of this trade route, a leadership which she has never lost. Just as this waterway assisted the largest city in the State to become, in later years, metropolis of the Nation, likewise the grain and other products which poured down the length of the Great Lakes chain, finding the "neck of the bottle" at Buffalo, gave to the Bison City a preeminence in commerce which is coveted by many another city.

As the canal system progressed it carried the territory served along with its development. Marked are the improvements which have been made to modernize this waterway and make it adaptable to the needs. The contrast between the present-day system of canals which serve this part of the country and the original canals is as great as between a boy's play canal and Panama; or, as the engineers suggest, between the first trails which crossed the country and the modern improved highway.

CONSTRUCTION COSTS

The cost of construction of the improved canal system, known as the Barge Canal, has been approximately as follows:

Erie, Champlain, and Oswego Canals, $145,000,000; Cayuga-Seneca Canals, $9,000,000; terminals, $30,000,000; or a grand total of nearly $180,000,000.

This canal system comprises the Erie Canal, Champlain Canal, Oswego Canal, Cayuga-Seneca Canals, with Cayuga Inlet at Ithaca, the Glen Falls feeder, and the lakes, reservoirs, feeders, harbor basins, and terminal docks connected therewith.

With this vast network of waterways, we have a new romance of ships in this country, with the tang of the salt air sweeping far inland, linking the ocean with the Great Lakes, through the Barge Canal. Recently doughty ships have appeared upon its bosom, giants compared with the picturesque little boats of generations past, whose master pilots steer a course not only along the fairway of the canal but on through two of the Great Lakes to port cities serving the middle western district of the country.

Modern craft, which are the proud possession of their owners, now weigh down heavily to the water line with cargoes, which are transported on voyages extending 600 to 700 miles inland from the sea. This is expanding the range of the canal beyond the fondest dreams of the pioneer builders. For a large craft to cruise from New York to Detroit, Cleveland, or Buffalo without transferring its cargo was impossible when the old, slender waterway was hampered by shallow locks.

Not only is this now a regular transportation achievement but the cruising speed attained compares most favorably with that which average ships make in the open sea. Motor-ships have ushered in an entirely new era in economy of operation and dispatch of delivery, and a host of young and enthusiastic skippers have taken up the task of operating this fleet, with the same enthusiasm which characterized the old salts along New England, way back yonder when schooners berthed in those picturesque ports.

The young chaps seem to have caught the vision of a wider prospect spreading far beyond the rippling waters of the canal system, and stretching clear through the Great Lakes chain. Although the original canal terminated at Albany, on the Hudson River, no such limitation hampers the new and improved system, for now the barge canal dips into the Atlantic, highway to world ports facing the seven seas, and provides an uninterrupted channel to more than one-third of the 1,000-mile long corridor of water which stretched far inland.

Not ony this but the people of New York State are getting "their money's worth" out of this waterway. A glance at the accompanying map, and a comparison of the population centers—where the majority of the folks reside—shows us that this canal system, and its feeder branches, actually serves 70 per cent of the nearly 11,000,000 people of New York, who reside within 2 miles of the canal system. Such a vast transportation network plays a conspicuous rôle in the maintenance of a reasonable freight rate to the average citizen, just as the canal system indirectly helps to keep rates down to a host of people living far from its network.

TREMENDOUS EXPANSION

A brief consideration of the increased volume of traffic handled by the canal system shows us that the procession of ships passing through has been lengthening since the improved system was opened 11 years ago, or in 1918. Thus a veritable evolution has gone steadily forward, consequent upon the vast enlargement of the waterway's dimensions, the size of its locks and channel, the abandonment of the old towpath, and the substitution of modern mechanical propulsion for antiquated methods.

To-day powerful steel fleets thrust their noses from the Great Lakes to the Atlantic, laden with precious cargoes of wheat, one of the world's essential gifts, since upon this the masses depend for the daily bread for which they so fervently pray. There are the motor-ships with a strange array of red piping on their decks, filled from tankers at the seaboard. These spread white wakes all the way up the historic Hudson and along the middle of the State, on to the Great Lakes. Other fleets carry merchandise from the ports of the seven seas, plying under their own Diesel power as far as Detroit, slipping out from the protected waters of the canal to meet the buffeting of Lake Erie's dashing waves—a new type of navigation, but mighty serviceable to modern commerce, connecting inland with the sea.

Thus it is that the New York Barge Canal system is a most remarkable corridor of modern commerce. When it was a little canal 4 feet deep and 40 feet wide, it was justly considered the eighth wonder of the world, thrust as it was far into the heart of the wilderness. Here in America it achieved exactly what the Languedoc Canal had done in linking France to the Mediterranean—it made possible for two great areas to enjoy transportation and communication. Thus two vast regions of mighty potentials were unlocked and linked, and the continuing story of America testifies to that which was to follow. On the Great Lakes, as foreseen by De Witt Clinton, first governor of New York, there has arisen in the more than the century that this waterway has been opened "the greatest inland trade ever witnessed." At the Atlantic, New York itself took its first real impetus from the old Erie Canal.

The "marriage of the waters," which was realized by the construction and continued operation of these canals, proved epoch making. The Great Lakes are themselves most unusual waterways, and stand without parallel in the modern world, save for the Mediterranean. Let us imagine these lakes joined with the Mississippi, as suggested—a canal extending up to Lake Michigan. This would comprise the future American Mediterranean, while the New York Barge Canal is its present Gibraltar Straits.

Now that man has spanned the continent with the "iron horse," he returns to discover that waterway traffic is the most economical, and the future era of harnessing these to man's need promises to solve many a perplexing modern problem. Using the old "ditch" of 1825, the New York canal system was able to meet the needs of those times, but now it is modernized and made fit for the present battle of delivering the goods.

Much closer to a real achievement in joining the two seas has been achieved in this canal system, plus the Great Lakes chain, than many seem to appreciate. Whereas the original canal handled cargoes of 30 tons, the present canal, though designed to care for a maximum cargo of 1,000 tons, actually moves, with efficiency, craft of between 1,500 and 2,000 tons. Two thousand tons equals an average American freight train of 100 cars, more than a mile in length; yet the motorized canal craft which totes this load is less than 300 feet from stem to stern.

MOVING GRAIN

Grain, the heavy-bulk cargo of the canal, travels in barges towed by tugs of 250 horsepower, whose Diesel motors come close to the operating figure of the original towpath, considered in its time to have been the most economical in the world. These grain barges are of 500 to 800 tons, and 800 tons in a single barge represents the cargo which would require 40 freight cars. A fleet of five of these barges may be seen trailing along behind the motorized tugs, which snail a cargo equal to 200 freight cars. Thus, when you see one of these tugs hauling a fleet of barges, you can visualize that the railroads have lost two freight-train cargoes, approximately 2½ miles of cars, and need no longer wonder why some of the railroad presidents make such scathing statements about the canal.

What the enlargement of the New York waterway meant has come most strikingly to the fore in recent months. Whereas back in 1880, when 30,000,000 bushels of wheat were moved down from the Lakes by use of a fleet of 6,000 of the old barges, in 1928, 33,000,000 bushels of wheat were transported in less than 500 barges.

The amount of wheat transported on the canal in 1928 was greater than any year since 1894. The canal has had a mighty tough row to hoe. As previously suggested, when the politicians are not after it the railroads are, and during the World War their executives, in complete control of the canal, under the famous Railroad Administration, saw to it that the canal did mighty little business. Its opening in 1918, after 13 unlucky years of construction, saw traffic otherwise diverted. It takes time to build up any business, but that of the canal at present is surely looking up in a handsome manner.

The transformed canal called for an entirely new fleet of larger ships than before used. Giant industries are not reconstructed overnight. More than 100 new steel craft have been put into service, making the total near to 1,000. A dozen motor ships have driven up, making a passage from New York to Detroit in 6 days; a few have covered the actual transit through the canal, from Oswego to the Hudson River,

including passage through the 31 locks, in 40 hours. Which all goes to show that waterway transit is not nearly so slow as we have been advised.

GROWTH OF TRAFFIC

The commerce flowing through the canals has been steadily on the upward trend, though much propaganda has been spread to the contrary. People are just commencing to appreciate that by routing their ships via this canal they make a material saving in freight charges without sacrificing a great deal of time. The rate of increase in 1928 was 12½ per cent, a figure which any grain handler would consider a nice increase in volume in his own business. In four years the advance was 50 per cent. In 1928 the flow of traffic rose 20 per cent in a single season; and that record, 3,089,000 tons, represents about one-fourth of the canal's maximum capacity, as calculated by engineers. However, if the traffic handled may be judged by the estimate on size of cargo ship, stated at 1,000 tons but actually operated as high as 2,000 tons, we may easily double this figure. That gives us a total annual tonnage of about 25,000,000. However, carrying the limited annual load, this canal has been estimated to save the territory east of the Rockies approximately $50,000,000 annually in freight rates, otherwise charged if the canal did not exist.

The old hue and cry used to be that the canal boats carried a "pay load" only one way, and therefore, had to go home with their nonprofit tails wagging behind them. This is no longer the case. Last year, for example, 1,336,000 tons were carried east, 1,999,000 tons went west, and the balance was nearly struck. Thus, the canal craft have become giant shuttles, weaving to and fro, across the face of the eastern half of the continent, making a beautiful commercial fabric which saves millions.

"Larger and better boats have been and are being registered for canal service," advised A. H. Moore, traffic manager of the canals. "In 1926 there were 771 cargo boats in canal service, with an aggregate capacity of 398,000 net tons; the next year 770 boats had a capacity of 416,860 tons, while in 1928, the combined capacities of 782 vessels aggregated 449,595 tons.

"From 1,159,270 tons in 1918, to 2,581,892 tons in 1927, a period of exactly 10 navigation seasons the gain in canal tonnage was 1,422,622 tons, or over 122 per cent."

ROUTES FOLLOWED

A craft bound from the Atlantic to Great Lakes, proceeds northerly from New York up the Hudson River, entering the first lock at Troy, a distance of 151.93 miles from Pier 6, East River. This lock, as well as the river below it, is under the jurisdcition of the Federal Government so far as navigation interests are concerned. The Erie Canal turns westward from the river 2.45 miles north of the lock, and from this point to the junction with the Niagara River, at Tonowanda, is 339 miles. Proceeding upstream in the Niagara River, immediately above the famous Falls, which is at an elevation of 564 feet above sea level, for a distance of 13 miles, the United States Government lock at Squaw Island is reached, which raises the vessel to the level of Lake Erie; and then the craft proceeds to the Erie Basin terminal. The distance from New York to Buffalo is 504.73 miles.

On the other hand, should Lake Ontario at Oswego, be the destination, the above route would be followed by the craft from New York westerly as far as Three River Point, a distance of 314.7 miles, where the canalized Oswego River would be entered and used for 24 miles to Lake Ontario. The total distance is 338 miles. From Oswego vessels may pass into Lake Erie by means of the Welland Ship Canal.

The passage from New York to Montreal covers the following route: Up the Hudson River to the Federal lock at Troy; through the Champlain Canal to Lock No. 12 at Whitehall, 62.86 miles; along Lake Champlain Inlet or "Narrows," 14 miles into Lake Champlain; and thence to the Canadian boundary line, 97.75 miles. From this point northerly the navigable channels are under the jurisdiction of the Dominion Government. The River Richelieu is followed downstream 23 miles to the entrance to the Chambly Canal at St. Johns. From here the canal extends to the Chambly Basin, a distince of 12 miles. Nine locks are encountered, the shortest having a length of 118 feet and a width of 22½ to 24 feet. The depth of water on sills is 6½ feet, with a width of the canal at the bottom of 36 feet and at the surface of 60 feet.

At Chambly Basin, the northerly end of the canal, the River Richelieu is again entered and navigated 32 miles to the St. Ours Lock, which has dimensions 200 feet by 45 feet, with a depth on sills of 7 feet. From here to Sorel, through the river, is 14 miles. At Sorel the Richelieu joins the St. Lawrence, and by way of this river, from Sorel to Montreal, is 46 miles. The total distance from New York is 453.21 miles.

Several other points may be reached on the St. Lawrence by continuing along the above route or by way of the Erie and Oswego Canals to Lake Ontario and thence across the lake to the river entrance at Cape Vincent or Kingston.

New York State operates elevators to handle canal traffic at Gowanus Bay, Brooklyn, and Oswego, with capacities of 2,000,000 bushels and 1,000,000 bushels, respectively. These elevators provide every modern facility for the handling of grain transported. During the 8-month season, a steady stream of golden grain pours into and out of these grain handlers, speeded on its way to the world's markets.

As in legislative session,

INTERNATIONAL CONGRESS FOR THE BLIND

Mr. MOSES. Out of order, from the Committee on Foreign Relations I report favorably without amendment the joint resolution (S. J. Res. 40) authorizing and requesting the President to extend invitations to foreign governments to be represented by delegates at the International Congress for the Blind to be held in the city of New York in 1931. I ask unanimous consent for its present consideration.

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

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

Resolved, etc., That the President be, and he is hereby, authorized and requested to transmit, through the American diplomatic missions, invitations on behalf of the American Foundation for the Blind, the American Association of Instructors for the Blind, and the American Association of Workers for the Blind, to foreign governments to be represented by delegates at the International Congress for the Blind to be held in the city of New York in 1931, with authority to the President to appoint delegates from the United States to attend said International Congress: *Provided*, That the action shall not involve any expense to the Government of the United States.

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

As in executive session,

EXECUTIVE MESSAGE

A message in writing was communicated to the Senate from the President of the United States by Mr. Latta, one of his secretaries.

CONFIRMATION OF GEORGE L. SHELDON

Mr. HARRISON. From the Committee on Finance, I report back favorably the nomination of George L. Sheldon to be collector of internal revenue for the district of Mississippi.

Mr. Sheldon was formerly Governor of Nebraska, but is now a resident of Mississippi. I ask unanimous consent for the present consideration of the nomination.

The PRESIDING OFFICER (Mr. FESS in the chair). The nomination will be announced for the information of the Senate.

The legislative clerk announced the nomination of George L. Sheldon, of Pettit, Miss., to be collector of internal revenue for the district of Mississippi.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the nomination? The Chair hears none. The nomination is confirmed, and the President will be notified.

REPORTS ON NOMINATIONS

Mr. STEPHENS, from the Committee on the Judiciary, reported favorably the nomination of Stillman E. Woodman, of Maine, to be United States marshal, district of Maine, which was ordered to be placed on the Executive Calendar.

Mr. BORAH, from the Committee on Foreign Relations, reported favorably sundry nominations in the Diplomatic and Foreign Service, which were ordered to be placed on the Executive Calendar.

RECOMMITTAL OF A NOMINATION

Mr. McKELLAR asked and obtained unanimous consent that the name of Otis E. Jones to be postmaster at Prospect Station, Tenn., be rereferred to the Committee on Post Offices and Post Roads.

EXECUTIVE MESSAGE REFERRED

The VICE PRESIDENT laid before the Senate a message from the President of the United States nominating John L. Day, of Oregon, to be United States marshal, district of Oregon, which was referred to the Committee on the Judiciary.

NOMINATION OF RICHARD J. HOPKINS

The Senate, in open executive session, resumed the consideration of the nomination of Richard J. Hopkins to be United States district judge for the district of Kansas.

Mr. TYDINGS. Mr. President, it is not without a measure of regret that I find myself in opposition to the confirmation of a nomination in which the State of Kansas is interested more than is any other section of the country, and in which both Senators from that State are on the opposite side from me. However, there are certain facts in the pending case which I think are worthy of the careful and considerate judgment of the Senate.

Frequently in the selection of a Federal judge many things are said about his qualifications. I recall that Pontius Pilate was a very learned judge. He was known as a good judge; he had a very distinguished career; he was honored and revered in all the communities in which his rulings and decisions were promulgated.

Immediately after Christ had been crucified a mob, made up of the rabble as well as many intelligent people, marched through the streets singing the praises of Pontius Pilate, and when the news of the crucifixion reached the Roman Senate many senators there arose and paid honor to that great judge. However, 1,900 years of history have made us realize that personal character and standing in a community alone are but a small part of the qualifications which a judge should have. His mental make-up, the judicial qualities of his mind, a temperament which lends itself readily to fair play, and great industry are also attributes which should be considered.

Now let us look into the qualifications of the candidate who presents himself as an applicant for the position of United States judge. True, he will sit as a judge in Kansas, but at any time after his confirmation he may be transferred to any State in the Union to hear, try, and determine cases; so that his confirmation or lack of confirmation becomes a matter of concern to all of us, for it may affect States other than the State of Kansas.

In order to be specific, I will say that there are statutes in Kansas, laws regularly passed by its legislature, which make it the duty of the attorney general of Kansas regularly to report the fees which he collects to the State treasury of that State. I shall read these two statutes, because the candidate, Mr. Hopkins, was attorney general of Kansas; and I shall prove by evidence that can not be successfully contradicted that he violated his oath of office and the laws of that State.

First, let us see what the statute provides:

REVISED STATUTES OF KANSAS, 1923

75-709—Accounting for fees: It shall be the duty of the attorney general to pay into the State treasury for the benefit of the general revenue fund all fees and allowances of every kind and character paid to him under color of any general or special statute for criminal convictions secured by him in violation of the prohibitory law and fees awarded to him by virtue of any statute for abating liquor nuisance, and all fees and allowances for enforcing all civil or criminal laws against monopolies and in restraint of trade and against gambling nuisances and practices and every other fee or allowance in any civil or criminal case whatsoever, whether specifically mentioned in this act or not; and for the appropriation to his private use of any such fee or allowance the attorney general shall forfeit his office and may be removed in the manner provided by law. (Revised 1923; old section D., 1913, ch. 313.1.) Annotation to L. 1913, ch. 313.1; fees of attorney general in contempt proceedings under prohibitory law, considered. The State ex rel. v. Dawson (90 K. 893, 841).

Another provision of the statutes of Kansas reads:

75-710. Assistants and employees: The attorney general shall appoint such assistants, clerks, and stenographers as shall be authorized by law, and who shall hold their office at the will and pleasure of the attorney general: *Provided*, That all fees and allowances earned by said assistants or any of them or allowed to them by any statute or order of court, in any civil or criminal case whatsoever, shall be turned into the general revenue fund of the State treasury, and the vouchers for their monthly salaries shall not be honored by the auditor of State until a verified account of the fees collected by them or either of them, during the preceding month, has been filed in the State auditor's office. (Revised, 1923; old sec. L. 1913, ch. 313.2.)

Briefly those two statutes mean simply this: That all money coming into the attorney general's office from any character of case in which the State may be interested shall be turned into the State treasury monthly.

Did Judge Hopkins do that when he was attorney general of the State? I hold in my hand affidavits showing the number of cases, together with the amount of the fees which came into his hands in one county in the State of Kansas. I also hold in my hand a report made by the certified public accountant firm of Brelsford, Wasson & Gifford, of Topeka, Kans., from which I read as follows:

Pursuant to your instructions we have prepared from the records of the auditor of state for the State of Kansas the following exhibit and related schedule:

Exhibit A.—Summary of abstract from records of the auditor of State of monthly reports of public moneys received by the attorney general, State of Kansas, Richard J. Hopkins, January 13, 1919, to December 31, 1922.

Schedule I.—Abstract from records of auditor of State of monthly reports of public moneys received by attorney general of State of Kansas, Richard J. Hopkins, from January 13, 1919, to December 31, 1922.

These reports are prepared in great detail. They show the month, the year, the date of the report, the date when the fee was received, where the fee came from, the character of case in which it was collected, and the total of the fees for the particular county.

I also hold in my hand a report of the fees collected by the attorney general from liquor and criminal cases in Leavenworth County, in the State of Kansas, to which an affidavit is also attached.

If Senators will give me their attention for a few moments I should like to impress upon them the point that there are 105 counties in the State of Kansas. The reports to which I have just referred are for only two of those counties. Yet those reports show that the attorney general collected $3,086 more than he turned into the State treasury from the entire State.

Mr. CAPPER. Mr. President——

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Kansas?

Mr. TYDINGS. I yield.

Mr. CAPPER. If the Senator will yield to me for just a moment, I wish to call his attention to one very important fact bearing on this matter, namely, that the fees which the Senator mentioned were collected by special assistant attorneys general authorized under the law, and that such special assistants are provided in only two counties in the State of Kansas, Wyandotte and Leavenworth, the ones referred to by the Senator. Therefore there could be no such situation as the Senator intimates in the other counties; there could not be a similar condition in them as to the collection of fees.

Mr. TYDINGS. I have just read to the Senate the law of the State of Kansas, which is superior to the ruling or the ipse dixit of the attorney general of that State. That statute provides that every fee collected either by the attorney general or by his assistants shall be turned into the State treasurer monthly.

Mr. CAPPER. Yes; and when the Senator has finished his statement I will present to the Senate affidavits from every official who has had anything to do with the handling of these fees, from the courts in those two counties up to the State treasurer, refuting absolutely every statement the Senator makes that there has been any juggling of the fees.

Mr. TYDINGS. Very well; I will be glad to have that information from the Senator; but I still maintain that Attorney General Hopkins turned into the State treasury of Kansas, to be exact, $11,132.01 for the entire State, while in those two counties—2 only out of 105—he collected $3,086 more than he turned in for the whole State of Kansas.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Nebraska?

Mr. TYDINGS. I yield.

Mr. NORRIS. It may be that the Senator has already given the information for which I am about to ask, but my attention was diverted and I did not hear all that he said. I think it is quite important to know what those two counties are and what large cities are located in those two counties.

Mr. TYDINGS. They are the county of Wyandotte and the county of Leavenworth.

Mr. NORRIS. And Leavenworth County is the county in which the city of Leavenworth is situated?

Mr. TYDINGS. I think it is, and I think it may be considered, perhaps, as a county where there is quite a good deal of crime as compared with conditions in Kansas generally.

Mr. NORRIS. What large city is in Wyandotte County, if any?

Mr. TYDINGS. I can not tell the Senator.

Mr. ALLEN. Kansas City, Kans., is in that county.

Mr. CAPPER. Yes; Kansas City, Kans., the largest city in the State, is located in that county, and that city in times past has been the gateway for those who violate the liquor laws of Kansas.

Mr. TYDINGS. I have read to the Senator the statute. The Senator will not contend that the attorney general can brush aside the statute.

Mr. CAPPER. I must insist, Mr. President, that we have absolute proof here that the statute has not been brushed aside in a single instance, and that every dollar has been accounted for by the State treasury and by the attorney general.

Mr. TYDINGS. But I have just read from the court records, taken by a certified public accountant, the amount of money which the attorney general or his assistant received, and, adding up that, it shows that in these 2 counties out of 105 he received over $3,000 more than he turned in for the entire State. I can not see how the Senator can get around that statement.

Mr. CAPPER. I prefer to wait until the Senator has completed his statement, because then I will show that Judge Hopkins has not received $3,000 or a single dollar more than he accounted for in the liquor cases.

Mr. TYDINGS. It is only fair for me to observe here—and I do not wish to be unfair—that I am not a resident of the State of Kansas, nor do I live near it; and it may be that some of the information which I am giving to the Senate in good faith is erroneous. If it is erroneous, I certainly hope the Senator will correct me; and if he does prove that I have been in error, I shall be the first man to withdraw anything that may be false or untrue about Mr. Hopkins.

Mr. CAPPER. I think I shall be able to convince the Senator from Maryland and any other Senator that the information is wholly erroneous.

Mr. TYDINGS. Then, I will yield to the Senator for an answer to this question: Will he tell me how he would explain away this situation dealing with fees?

You have a State auditor in Kansas, appointed by the governor. It is his duty regularly to go around and audit the books of the various departments. The auditor did so in the year 1920, when Mr. Hopkins was attorney general of the State. Here is what he said in his report, and here is a sworn copy of the auditor's report. I shall not read it all, but I ask permission to insert it all in the RECORD.

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

The matter referred to is as follows:

JUNE 2, 1920.

HENRY J. ALLEN, *Governor.*

DEAR SIR: In compliance with chapter 309, section 2, Laws of 1917, we have made and herewith present report of our audit of all income accounts of the attorney general covering the period commencing July 1, 1918, and ending December 31, 1919.

On page 1, hereto attached and made a part hereof, we show a summary of the collection made by said office during aforesaid period, together with a memorandum of the account of Richard J. Hopkins, trustee, with the Kansas Reserve State Bank, Topeka, Kans., which account evidently consists wholly of sums donated to this office for the purpose of defraying at least a portion of certain extraordinary expenses connected with certain prosecutions conducted by the attorney general or his assistants.

Paragraph 10762, General Statutes of Kansas, 1915, provides for the keeping in proper books of a register of all actions prosecuted or defended by the attorney general and all proceedings had in relation thereto. When we made a request for such a record we were informed that none had been kept, nor had the former attorney general kept and turned over such a record to the present incumbent. Without such a record it is impossible for us to check up the various actions in which a fee or fees may be due this office.

I am, therefore, of the opinion that such a record should be kept in the future, so that the difficulty at present encountered will not be present in the future checks made by this office.

In the following cases brought by Roy R. Hubbard, special assistant, attorney general, there would appear to be an unpaid fee:

Case No. 5181, September, 1918, State *v.* George Martell	$25
Case No. 5182, September, 1918, State *v.* Bobich	25
Case No. 5269, January, 1919, State *v.* Jesus Espaga	25

In verifying the amount of fees, as reported by Mr. Hubbard against the vouchers issued in his favor, we find that on December 9, 1918, voucher for $500 was properly certified to the auditor, but that by reason of a clerical error a warrant (No. 6007) was issued on December 16, 1918, for $450, and the balance of $50 is still due Mr. Hubbard.

We find that on June 29, 1918, a deposit of $100 was made to D. A. Valentine, clerk of the supreme court, in the case of State *v.* Davis (docket No. 21963) by the former attorney general. A decree of judgment against the defendant is recorded in this case and costs assessed against him, but the records show that the costs have not been paid into the court. Said costs include a commissioner's fee of $100, which seems to have been paid out of the deposit made by this office, above referred to herein. It would, therefore, appear that this defendant should be required to pay this judgment for costs, and that the $100 deposit above mentioned and referred to should be returned to the attorney general's office. This matter has been called to the attention of both Mr. Hopkins and Mr. Valentine.

Yours very truly,

J. N. ATKINSON,
State Accountant.

I, Dorothy Owens, public stenographer, do here certify that the foregoing is a true and correct copy of report of J. N. Atkinson, State accountant, volume 1, under date of June 1, 1919, to June 30, 1920, as taken from State report which is on file in the State auditor's office.

DOROTHY OWENS.

Subscribed and sworn to before me this 7th day of December, 1929.

[SEAL.] ALMA PURTZER,
Notary Public.

My commission expires 12th day of January, 1931.

Mr. TYDINGS. I shall read only, unless I am asked to read further by some one, the pertinent paragraphs in this report.

Speaking of the audit of the attorney general's office, the accountant says:

On page 1 hereto attached and made a part hereof we show a summary of the collections made by said office during aforesaid period, together with a memorandum of the account of Richard J. Hopkins, trustee, with the Kansas Reserve State Bank, Topeka, Kans., which account evidently consists wholly of sums donated to this office for the purpose of defraying at least a portion of certain extraordinary expenses connected with certain prosecutions conducted by the attorney general or his assistants.

I call the Senator's attention to this, particularly:

Paragraph 10762, General Statutes of Kansas, 1915, provides for the keeping, in proper books, of a register of all actions prosecuted or defended by the attorney general and all proceedings had in relation thereto. When we made a request for such a record, we were informed that none had been kept, nor had the former attorney general kept and turned over such a record to the present incumbent. Without such a record it is impossible for us to check up the various actions in which a fee or fees may be due this office.

Then the report goes on to show some fees about which there is question.

That was in 1920 that the auditor called on Richard J. Hopkins, called his attention to the statutes of Kansas, told him he was not complying with the law, told him that he had no books showing the fees of that office, and said that he wanted to audit it, and that without that report he could not make a careful and complete and accurate audit. He went back again in 1922, and here is another sworn audit, two years after the first one; and what does this auditor say? I shall not read it all, but I ask permission to have it inserted in the RECORD.

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

The matter referred to is as follows:

[J. F. Elston, State accountant; R. F. Montgomery, chief clerk]

STATE OF KANSAS,
OFFICE OF STATE ACCOUNTANT,
Topeka, February 13, 1922.

Subject: Audit of attorney general department.

Mr. J. F. ELSTON,
State Accountant, Topeka, Kans.

DEAR SIR: I have completed the check of the receipts and expenditures of the attorney general's department covering the period from January 1, 1920, the date of our former check, to January 1, 1922.

In the report of the former check attention was called to the fact that costs in case No. 21963 had not been collected. This collection of $100 was made in July, 1920, and remitted as fees for that month. The former report further speaks of a trust fund in the hands of the attorney general made up by moneys received by him from different organizations for the purpose of helping to defray the expenses of liquor prosecutions. The attorney general does not handle this money now, or, in other words, this trust fund has been done away with, and such moneys are turned into the hands of the Anti-Saloon League.

The attorney general keeps no record of cases handled by the special assistants who are appointed for the purpose of enforcing the prohibition and antigambling laws. The only records the office has is when the attorney fees are remitted. These fees are then reported and sent to the State treasurer. This being the case, there is no original source of evidence of these collections to be checked in this department. These funds are reported on the regular blanks and the records are found in the auditor's office, and I found these indicate the following collections for this department.

	6 months, January–July, 1920	Fiscal year 1921	6 months, July–January, 1921
Special contingent fund		$426.21	
Liquor violations	$2,100.00	2,355.25	
	2,100.00	2,781.46	

The only way these collections could be checked to their origin would be to check the district court records wherever the assistant attorney general has prosecuted cases, and thereby get the records of the attorney fees allowed by the court. There were no fees reported from July 1 to December 31, 1921.

The disbursements as indicated by the vouchers on file in the auditor's office amount to:

* * * * * * *

SUGGESTIONS FOR IMPROVEMENTS

I would recommend that the attorney general require reports from all assistants in the field each month with regard to the cases completed and the attorney fee allowed. A record can then be kept in his

office showing the fees to the State and when they are paid. This would give us a fair record for checking the amount that comes into the department.

Respectfully, N. A. BAKER.

I, Dorothy Owens, do here certify that the foregoing is a true and correct copy of the recommendations of the report of J. F. Elston, State accountant, volumes 4 and 5, under date July 1, 1921, to June 30, 1922, taken from State report which is on file in the State auditor's office.

DOROTHY OWENS.

[SEAL.] ALMA PURTZER,
Notary Public.

My commission expires 12th day of January, 1931.

Mr. TYDINGS. I shall read only the pertinent paragraphs:

I have completed the check of the receipts and expenditures of the attorney general's department, covering the period from January 1, 1920, the date of our former check, to January 1, 1922.

In the report of the former check, attention was called to the fact that costs in case No. 21963 had not been collected. This collection of $100 was made in July, 1920, and remitted as fees for that month. The former report further speaks of a trust fund in the hands of the attorney general made up by moneys received by him from different organizations for the purpose of helping to defray the expenses of liquor prosecutions. The attorney general does not handle this money now, or in other words, this trust fund has been done away with, and such moneys are turned into the hands of the Anti-Saloon League.

Here is the significant paragraph:

The attorney general keeps no record of cases handled by the special assistants who are appointed for the purpose of enforcing the prohibition and antigambling laws. The only records the office has is when the attorney fees are remitted. These fees are then reported and sent to the State treasurer. This being the case, there is no original source of evidence of these collections to be checked in this department. Those funds are reported on the regular blanks, and the records are found in the auditor's office, and I found these indicate the following collections for this department.

Then follows the account of some of the collections and some points in controversy.

The point I make is that here is the law-enforcement officer of the State of Kansas, handling the public money due to go into the State treasury, who has taken an oath to abide by the constitution of Kansas and to perform all the requirements of the office of attorney general, who does not live up to the statute regulating the conduct of his own office, but handles money in this careless way, so that to-day the certified accounts actually show that $3,000 more was collected in two counties than he turned in for the whole State of Kansas; and even after he had this statute called to his attention, two years later when the auditor came around he found no records kept, and the same chaotic conditions prevailing.

What does law enforcement mean? Just enforcing three or four particular laws in which you have a great interest? I should think a man who aspires to the high office of Federal judge should be the kind of man who, in handling public money, would leave his books and accounts in such shape that not the slightest finger of suspicion could be logically pointed to the conduct of any office he might hold.

I ask permission to insert in the RECORD the figures and material shown in this certified public statement, and also an account of the fees collected in these two counties.

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

The matter referred to is as follows:

Abstract from records of auditor of State of monthly reports of public moneys received by attorney general of State of Kansas, Richard J. Hopkins, January 13, 1919, to December 31, 1922

BRELSFORD, WASSON & GIFFORD,
CERTIFIED PUBLIC ACCOUNTANTS,
Topeka, Kans., December 6, 1929.

Mr. WILLIAM HOWE,
Secretary-Treasurer Kansas State Federation of Labor,
Kansas City, Kans.

SIR: Pursuant to your instructions we have prepared from the records of the auditor of State for the State of Kansas the following exhibit and related schedule:

Exhibit A.—Summary of abstract from records of auditor of State of monthly reports of public moneys received by attorney general, State of Kansas, Richard J. Hopkins, January 13, 1919, to December 31, 1922.

Schedule I.—Abstract from records of auditor of State of monthly reports of public moneys received by attorney general of State of Kansas, Richard J. Hopkins, January 13, 1919, to December 31, 1922.

Exhibit A is a summary of Schedule I. The information appearing on Schedule I was obtained from the monthly reports of public moneys received by the attorney general for the period reviewed on file in the office of the auditor of State. A monthly report for each month of the period heretofore specified was examined. The totals for each period were traced to and found to be in agreement with or included in amounts reported as fees collected by the attorney general, as shown on page 39 of the twenty-second, page 138 of the twenty-third, and page 136 of the twenty-fourth biennial reports of the auditor of State.

Respectfully submitted.

BRELSFORD, WASSON & GIFFORD,
By H. W. GIFFORD,
Certified Public Accountant.

EXHIBIT A

Summary of abstract from records of auditor of State of monthly reports of public moneys received by attorney general, State of Kansas, Richard J. Hopkins, January 13, 1919, to December 31, 1922

Period	Fees received			Fees received from—								
	Liquor	Other	Total	Roy R. Hubbard	J. K. Codding	Jno. L. Hunt	F. L. Campbell	Fred L. Crabbe	Clerk supreme court	Barton County	City of Leavenworth	University of Kansas
Schedule I:												
Jan. 13 to June 30, 1919	$1,275.00	$20.00	$1,295.00	$1,275.00		$20.00						
July 1, 1919, to June 30, 1920	3,550.00		3,550.00	3,550.00								
July 1, 1920, to June 30, 1921	2,355.25	156.21	2,511.46	1,825.00					$147.10	$25.00	$505.25	$9.11
July 1, 1921, to June 30, 1922	2,575.00	213.05	2,788.05	2,400.00	$175.00		$213.05					
July 1 to Dec. 31, 1922	987.50		987.50	625.00	300.00			$62.50				
Total	10,742.75	389.26	11,132.01	9,675.00	475.00	20.00	213.05	62.50	147.10	25.00	505.25	9.11

SCHEDULE I.—*Abstract from records of auditor of State of monthly reports of public moneys received by attorney general of State of Kansas, Richard J. Hopkins, January 13, 1919, to December 31, 1922*

Report for month of—	Date of report	Date fees received	Received from—	Fees received		
				Liquor	Other	Total
January 13-31, 1919	Feb. 1, 1919	Jan. 27	Jno. L. Hunt		$20.00	$20.00
February, 1919	Mar. 1, 1919	Feb. 17	Roy R. Hubbard	$400.00		400.00
March, 1919	Apr. 28, 1919	Mar. 14	Roy Hubbard	475.00		475.00
		Mar. 29	do	400.00		400.00
April, 1919	May 31, 1919		None			
May, 1919	June 3, 1919		do			
June, 1919	July 14, 1919		do			
Total Jan. 13 to June 30, 1919, to Exhibit A				1,275.00	20.00	1,295.00
July, 1919	Aug. 25, 1919	July 17	Roy Hubbard, special assistant attorney general	675.00		675.00
August, 1919	Sept. 2, 1919	Aug. 16	do	550.00		550.00
September, 1919	Oct. 22, 1919		None			
October, 1919	Nov. 3, 1919		do			
November, 1919	Dec. 12, 1919		do			

SCHEDULE I.—*Abstract from records of auditor of State of monthly reports of public moneys received by attorney general of State of Kansas, Richard J. Hopkins, January 13, 1919, to December 31, 1922*—Continued

Report for month of—	Date of report	Date fees received	Received from—	Fees received		
				Liquor	Other	Total
December, 1919	Jan. 12, 1920	Dec. 13	Roy R. Hubbard	$225.00		$225.00
January, 1920	Mar. 3, 1920	Jan. 30	do	300.00		300.00
February, 1920	do	Feb. 22	do	425.00		425.00
March, 1920	Apr. 15, 1920	Mar. 30	do	525.00		525.00
April, 1920	May 14, 1920	Apr. 15	do	450.00		450.00
May, 1920	June —, 1920	May 27	do	400.00		400.00
June, 1920	July 15, 1920		None			
Total July 1, 1919, to June 30, 1920, to Exhibit A				3,550.00		3,550.00
July, 1920	Aug. 14, 1920	July 17	Clerk supreme court		$100.00	100.00
		July 31	Roy R. Hubbard	500.00		500.00
August, 1920	Oct. 1, 1920	Aug. 14	do	550.00		550.00
		Aug. 31	do	425.00		425.00
September, 1920	do		None			
October, 1920	Nov. 15, 1920	Oct. 15	Roy Hubbard	350.00		350.00
November, 1920	Dec. 15, 1920		None			
December, 1920	Jan. 15, 1921	Dec. 11	Supreme court		37.10	37.10
January, 1921	Feb. 15, 1921	Jan. 26	do		10.00	10.00
February, 1921	Mar. 15, 1921		None			
March, 1921	Apr. 15, 1921		do			
April, 1921	July 13, 1921		do			
May, 1921	June 9, 1921	May 4	City of Leavenworth	130.25		130.25
		May 6	do	375.00		375.00
June, 1921	July 13, 1921	June 22	University of Kansas		9.11	9.11
Do		July 25	Clerk district court Barton County	25.00		25.00
Total July 1, 1920, to June 30, 1921, to Exhibit A				2,355.25	156.21	2,511.46
July, 1921	Aug. 1, 1921		None			
August, 1921	Sept. 1, 1921		do			
September, 1921	Oct. 1, 1921		do			
October, 1921	Nov. 1, 1921		do			
November, 1921	Dec. 1, 1921		do			
December, 1921	Jan. 5, 1922		do			
January, 1922	Feb. 6, 1922	Jan. 19	J. K. Codding	175.00		175.00
		do	Roy Hubbard	250.00		250.00
February, 1922	Feb. 28, 1922	Feb. 10	F. L. Campbell		23.05	23.05
		Feb. 28	do		190.00	190.00
March, 1922	Mar. 31, 1922	Mar. 30	Roy Hubbard	300.00		300.00
		do	do	50.00		50.00
April, 1922	Apr. —, 1922	Apr. 3	do	50.00		50.00
		Apr. 5	do	175.00		175.00
		Apr. 14	do	500.00		500.00
		May 5	do	150.00		150.00
May, 1922	June 1, 1922	May 15	do	525.00		525.00
		May 30	do	400.00		400.00
June, 1922	June 30, 1922		None			
Total July 1, 1921, to June 30, 1922, to Exhibit A				2,575.00	213.05	2,788.05
July, 1922	Aug. 1, 1922	July 10	Roy R. Hubbard	25.00		25.00
August, 1922	Aug. 31, 1922		None			
September, 1922	Sept. 30, 1922		do			
October, 1922	Oct. 31, 1922	Oct. 30	J. K. Codding	175.00		175.00
November, 1922	Dec. 1, 1922		None			
December, 1922	Dec. 31, 1922	Dec. 1	J. K. Codding	125.00		125.00
		Dec. 18	Roy Hubbard	600.00		600.00
		Dec. 22	Fred L. Crabbe	62.50		62.50
Total July 1, 1922, to Dec. 31, 1922, to Exhibit A				987.50		987.50

Fees collected for liquor and criminal cases

LEAVENWORTH COUNTY, KANS.

Case No.	Style of case	Fee	By whom collected
5975	State *v.* Albert Gies	$50	J. K. Codding.
5980	State *v.* Otto, Mrs. Peterson, John Malore, W. M. Smith, Dan. Brumley, and R. Gantor.	50	Roy Hubbard.
5986	State *v.* Malldoy and John Kroll	50	Do.
5988	State *v.* Arthur Blanton alias R. J. Wingfield.	25	Do.
5989	State *v.* Bude Car	50	Do.
5990	State *v.* John Doe and Richard Roe	75	John J. Glynn, assistant county attorney for Hopkins.
5992	State *v.* John Harmon	25	Roy Hubbard.
6009	State *v.* Geo., Ed., and Jennie Williams, May 6, 1922.	25	Do.
	Same case Jan. 1, 1923	25	Do.
6013	State *v.* John Doe and Richard Roe	25	J. K. Codding.
6018	State *v.* Tom Lawson	25	Roy Hubbard.
6031	State *v.* Morris Fitzgerald and J. C. Ramey.	25	Do.
6066	State *v.* Frank Kachanouski	25	J. K. Codding.
6078	State *v.* August Rephausen	25	Roy Hubbard.
6079	State *v.* Mrs. Otta Herbert and C. W. Hedges.	25	Do.
6081	State *v.* Fred Spindler	25	J. K. Codding.
6092	State *v.* John Griffeth	25	Roy Hubbard.
6196	State *v.* Ira Skaggs and Earnest Damon.	25	J. K. Codding.
6220	State *v.* Gertrude Shaw and McIntyre	25	Do.
6224	State *v.* C. C. Odgen, Michael Crotty, and W. M. Wesley.	25	Do.
6225	State *v.* John and Bod Smith	25	Do.
6226	State *v.* Robt. Wooten	25	Do.
		700	

Jan. 1, 1919, to Jan. 1, 1923, by Charles R. Nuzum.

DISTRICT COURT, WYANDOTTE COUNTY, KANS.

Case No.	Style of case	Attorney fee	Received by—
5625	State *v.* Charles Davis	$50.00	Roy R. Hubbard, assistant attorney general.
5630	State *v.* Earl L. Chitwood et al	75.00	Do.
5657	State *v.* Pearl Blackwell	50.00	Do.
5684	State *v.* J. M. Washburn et al	50.00	Roy R. Hubbard.
5757	State *v.* John Heeler et al	50.00	Do.
5760	State *v.* A. M. Simpson et al	25.00	Roy R. Hubbard, assistant attorney general.
5854	State *v.* Felix Archiczewski	50.00	Roy R. Hubbard.
5856	State *v.* Sam Davis	25.00	Roy R. Hubbard, assistant attorney general.
5857	State *v.* Louie Uzllac et al	75.00	Roy R. Hubbard.
5859	State *v.* W. W. Hummanson	50.00	Do.
5912	State *v.* William Kirn	25.00	Do.
5913	State *v.* Charles Leake	25.00	Do.
5915	State *v.* Terfon DeGrave	25.00	Do.
5925	State *v.* Pete Limbock	50.00	Do.
5926	State *v.* Nat Diederick	50.00	Do.
5927	State *v.* A. G. Man	25.00	Do.
5928	State *v.* J. C. Kippes	25.00	Do.
5929	State *v.* John S. Reiff	50.00	Do.
5930	State *v.* W. E. Tyson	25.00	Roy R. Hubbard, assistant attorney general.
5937	State *v.* Wm. Renner et al	75.00	Roy R. Hubbard.
5943	State *v.* Bob Wilson et al	25.00	Roy R. Hubbard, assistant attorney general.
5954	State *v.* James E. Clifford	25.00	Do.
5958	State *v.* Ramon Pocha	50.00	Do.
5959	State *v.* Frank Charles	25.00	Do.
5960	State *v.* Simon Marin	25.00	Do.
5961	State *v.* Manuel Marin	25.00	Do.
5962	State *v.* Telesfora Jimenez	50.00	Do.
5963	State *v.* Angustin Martinez	25.00	Do.
5964	State *v.* Jacinto Soria	50.00	Do.
6044	State *v.* Frank Murphy	25.00	Do.
6047	State *v.* R. W. Stubbs	25.00	Do.
6061	State *v.* John Doe	50.00	Do.

DISTRICT COURT, WYANDOTTE COUNTY, KANS.—continued

Case No.	Style of case	Attorney fee	Received by—
6064	State v. Frank Smith	$50.00	Roy R. Hubbard, assistant attorney general.
6070	State v. Theo. Vanseyter	25.00	Do.
6071	State v. L. C. Courtney	50.00	Do.
6073	State v. Henry Paxton	50.00	Do.
6079	State v. Mat McGrath	50.00	Do.
6083	State v. Alex Whitman	50.00	Do.
6084	State v. J. W. De Vine	50.00	Roy R. Hubbard.
6087	State v. L. B. Wilson	50.00	Do.
6089	State v. A. P. Stinger	50.00	Do.
6090	State v. Jose Loope	25.00	Do.
6091	State v. E. J. Allan	50.00	Do.
6092	State v. W. J. Miller	25.00	Do.
6093	State v. Wm. Richten	50.00	Do.
6094	State v. C. A. Hodges	25.00	Do.
6095	State v. J. B. Shaffer	50.00	Do.
6096	State v. John Bumgarden	50.00	Do.
6102	State v. A. Bronton	50.00	Do.
6114	State v. Louis La May et al	100.00	Do.
6121	State v. Nobert Supski	50.00	Do.
6122	State v. John Pollar	25.00	Do.
6123	State v. C. Moore	50.00	Do.
6128	State v. Wm. Dexter	50.00	Do.
6131	State v. Edward Jones	50.00	Do.
6132	State v. Huttleson	50.00	Do.
6152	State v. Alex Stembock	50.00	Do.
6153	State v. Ray Nol et al	50.00	Do.
6155	State v. C. A. Wilson	50.00	Do.
6156	State v. Frank Breitenstein	50.00	Do.
6161	State v. J. W. Gray	50.00	Roy R. Hubbard, assistant attorney general.
6162	Cr. State v. A. T. Kochu	50.00	Roy R. Hubbard.
6163	State v. J. E. Steer	50.00	Do.
6164	State v. H. E. Snyder	50.00	Do.
6166	State v. C. A. Blake	50.00	Do.
6170	State v. John Root	50.00	Do.
6171	State v. Andrew Failer	50.00	Do.
6172	State v. Godfrey Johnson	50.00	Do.
6177	State v. Orville Powell et al	250.00	Do.
6178	State v. Sam Walker	50.00	Do.
6182	State v. C. F. Hoyt	50.00	Do.
6183	State v. A. M. Summers	50.00	Do.
6184	State v. C. C. Twyman	50.00	Do.
6185	State v. Lewis F. Keeler	50.00	Roy R. Hubbard, assistant attorney general.
6186	State v. I. A. Carlson	50.00	Roy R. Hubbard.
6206	State v. H. C. Bockshann	25.00	Do.
6208	State v. R. H. Dengate	50.00	Do.
6209	State v. Will Johnson	50.00	Do.
6210	State v. John Riley	50.00	Do.
6211	State v. Frank Kelley	50.00	Do.
6215	State v. Lindon Moore	50.00	Do.
6216	State v. Elmer Lundgraw	50.00	Do.
6218	State v. Wm. B. McGee	50.00	Do.
6219	State v. James Shrakas	50.00	Do.
6222	State v. Henry Hillinberg	150.00	Do.
6224	State v. J. W. Miller	50.00	Do.
6225	State v. Homer Smith	25.00	Do.
6227	State v. J. J. Keres	50.00	Roy R. Hubbard, assistant attorney general.
6228	State v. E. Hobart	50.00	Roy R. Hubbard.
6232	State v. H. N. Hodges et al	100.00	Do.
6234	State v. Jos. Lopez	50.00	Do.
6233	State v. C. C. Sister	25.00	Do.
6235	State v. Jacob Steffern	50.00	Do.
6236	State v. E. W. Avet	25.00	Do.
6237	State v. Pat Kelley	50.00	Do.
6238	State v. John Wolf	50.00	Do.
6239	State v. Ed Harper	25.00	Do.
6240	State v. Ed McDonald	50.00	Do.
6241	State v. A. H. Moore	50.00	Do.
6242	State v. John Riley	50.00	Roy R. Hubbard, assistant attorney general.
6243	State v. Barin Smith	50.00	Roy R. Hubbard.
6244	State v. James Meyers	50.00	Do.
6245	State v. J. A. Meurens	50.00	Do.
6246	State v. A. B. Betz	50.00	Do.
6247	State v. George Frank	50.00	Do.
6248	State v. B. H. Vance	50.00	Do.
6249	State v. Leslie Jones	49.45	Do.
6250	State v. J. Henry	50.00	Do.
6251	State v. C. C. Frail	50.00	Do.
6252	State v. John Jones	50.00	Do.
6253	State v. P. Murrey	50.00	Do.
6254	State v. Don Malone	50.00	Do.
6255	State v. D. D. Anderson et al	300.00	Do.
6257	State v. R. D. Spencer	50.00	Do.
6258	State v. Chas. McGee	50.00	Do.
6259	State v. Wm. Bright	50.00	Do.
6260	State v. Charles F. Reed	50.00	Roy R. Hubbard, assistant attorney general.
6261	State v. Champ Milner	50.00	Roy R. Hubbard.
6262	State v. Ora J. Elby et al	75.00	Do.
6263	State v. Wayda Elliott	50.00	Do.
6264	State v. Joe Caruso	50.00	Do.
6265	State v. Robert Wilson	50.00	Do.
6267	State v. Chas. Green et al	75.00	Do.
6269	State v. Carl Neise	50.00	Do.
6271	State v. Thomas Baylos et al	150.00	Do.
6272	State v. Luther M. Barnum	50.00	Do.
6273	State v. S. Schlob	50.00	Do.
6274	State v. G. H. McCallis	50.00	Do.
6275	State v. John Grandjean	50.00	Do.
6277	State v. J. Henshkomstz	50.00	Do.
6278	State v. J. E. George	50.00	Do.
6279	State v. Joe Frederick	50.00	Do.
6280	State v. Franasco Zamora	100.00	Do.
6282	State v. Arthur Scholl	50.00	Do.
6283	State v. O. L. Houghland	50.00	Do.
6285	State v. Charles Johnson	50.00	Do.

DISTRICT COURT, WYANDOTTE COUNTY, KANS.—continued

Case No.	Style of case	Attorney fee	Received by—
6286	State v. James McBride et al	$100.00	Roy R. Hubbard.
6287	State v. George Keil	50.00	Do.
6289	State v. John Russ	50.00	Do.
6290	State v. Chas. Bean	50.00	Do.
6291	State v. Pelipe Torres	25.00	Do.
6292	State v. A. E. Anderson	50.00	Do.
6293	State v. R. E. Wright	50.00	Do.
6295	State v. Homer See	50.00	Do.
6296	State v. Fred Sachs	50.00	Do.
6298	State v. Jack Jones	50.00	Do.
6299	State v. H. DeCamp	50.00	Do.
6301	State v. James L. Brady	50.00	Do.
6302	State v. H. T. Curtis	50.00	Do.
6304	State v. J. C. B. Hargis, alias Evans	50.00	Do.
6367	State v. Roy Kirby	50.00	Do.
6368	State v. Joe Boleski	50.00	Roy R. Hubbard, assistant attorney general.
6369	State v. Frank Garski	50.00	Roy R. Hubbard.
6370	State v. Frank Olsen	50.00	Do.
6371	State v. Roy Sherley	50.00	Roy R. Hubbard, assistant attorney general.
6571	State v. Mike Puskaric	25.00	Roy R. Hubbard.
6787	State v. Ann Markewich	50.00	Do.
6788	State v. Joe Chrisman	50.00	Roy R. Hubbard, assistant attorney general.
6878	State v. Will Paris et al	75.00	Do.
6879	State v. Frank Cricrulla	50.00	Do.
6918	State v. R. B. Gardner	25.00	Roy R. Hubbard.
6969	State v. Carl Rady et al	75.00	Roy R. Hubbard, assistant attorney general.
6970	State v. Nellie Skamppan	75.00	Do.
6971	State v. Sam Epstein	50.00	Do.
6987	State v. E. Johnson et al	50.00	Do.
6989	State v. Minor Chapman et al	50.00	Do.
7056	State v. B. B. Jackson	25.00	Roy R. Hubbard.
7146	State v. John Doe (W. L. Paysiz)	25.00	Do.
7147	State v. W. Nowski	75.00	Roy R. Hubbard, assistant attorney general.
7150	State v. Tony Madrak	75.00	Do.
7152	State v. Aniceta Donngers	75.00	Roy R. Hubbard.
7171	State v. Mat Zagar	75.00	Roy R. Hubbard, assistant attorney general.
7181	State v. John Miller	75.00	Do.
7183	State v. Bill Hoffman	75.00	Do.
7203	State v. Pete Sercer	75.00	Roy R. Hubbard.
7267	State v. George Novogradec	50.00	Roy R. Hubbard, assistant attorney general.
7282	State v. Pete Sercer et al	75.00	Roy R. Hubbard.
7284	State v. John Panek et al	50.00	Do.
7286	State v. Joe Charzer	24.40	Do.
7459	State v. A. A. Fowler	75.00	Do.

CITY COURT, FIRST DISTRICT

5181	State v. George Martell	$25.00	Roy R. Hubbard, assistan attorney general.
5182	State v. Nick Bobich	25.00	Do.
5197	State v. Harry Brumbaugh	25.00	Do.
5212	State v. Lewis Alexander	50.00	Do.
5213	State v. George Jones	50.00	Do.
5218	State v. Wm. Ratz	50.00	Do.
5219	State v. George Stengel	50.00	Do.
5235	State v. Smith E. Wort	25.00	Do.
5239	State v. Tom Green	50.00	Do.
5288	State v. John Doe	50.00	Do.
5289	State v. Sam Turner	25.00	Do.
5290	State v. Arrow Stine	25.00	Do.
5389	State v. W. Nelson	50.00	Do.
5410	State v. J. E. Diehmer	50.00	Do.
5411	State v. Nick Klster	50.00	Do.
5412	State v. Allen Gatewood	24.50	Do.
5413	State v. Steve Lister	50.00	Do.
5496	State v. Roy Washington et al	50.00	Do.
5505	State v. J. D. Lindley	50.00	Do.
5508	State v. Vincent Ramirez	25.00	Do.
5537	State v. John Newton	50.00	Do.
5576	State v. Fred Crowder	50.00	Do.
5617	State v. Frank Kaslina	50.00	Do.
5618	State v. Dora Killim	75.00	Do.
5631	State v. Charles Emery	50.00	Do.
5640	State v. Daniel Bukaty	50.00	Do.
5666	State v. John Askins	50.00	Do.
5806	State v. Joe Murray	25.00	Do.
5807	State v. Henry McPhail	50.00	Do.
5808	State v. B. Smith	20.00	Do.
5815	State v. John Ineck et al	100.00	Do
5821	State v. W. B. Price	50.00	Do.
5822	State v. James E. Boxa	50.00	Do.
5823	State v. John Kupka	50.00	Do.
5824	State v. Wm. Mayfield	50.00	Do.
5825	State v. Dean Keikel	50.00	Do.
5828	State v. Frank Curtis	50.00	Do.
5829	State v. Clarence Oswald	50.00	Do.
5835	State v. John Gee	50.00	Do.
5833	State v. Frank Hunnington	50.00	Do.
5835	State v. Chris Enge et al	50.00	Do.
5842	State v. R. Meyers	50.00	Do.
5848	State v. S. W. Skinner	50.00	Do.
5849	State v. John Moody	50.00	Do.
5850	State v. Everett Price	50.00	Do.
5851	State v. Louis Maynard	50.00	Do.
5958	State v. Clude W. Violet	50.00	Do.
5959	State v. D. D. Ryan	50.00	Do.
6587	State v. U. V. Parker et al	25.00	Do.
6634	State v. Minor Chapman et al	50.00	Do.
6831	State v. Matt Madger	50.00	Do.
6833	State v. Steve Koska	50.00	Do.

CITY COURT, SECOND DISTRICT

Case No.	Style of case	Attorney fee	Received by—
5026	State v. Jessie Ware	$50.00	Roy R. Hubbard, assistant attorney general.
5057	State v. Fred Smith	50.00	Do.
5058	State v. J. A. Harris	50.00	Do.
5061	State v. R. Williamson	50.00	Do.
5064	State v. Sylvester Orvill	50.00	Do.
5073	State v. G. H. Bain	50.00	Do.
5079	State v. Roy Nolans	50.00	Do.
5084	State v. J. P. Fleming	50.00	Do.
5085	State v. Lea Wyman	50.00	Do.
5088	State v. Hale Clark	50.00	Do.
5089	State v. B. Bennett	50.00	Do.
5090	State v. Wm. Lueaker	50.00	Do.
5093	State v. W. O. Rush	50.00	Do.
5095	State v. L. W. Jones	50.00	Do.
5096	State v. E. E. Hausher	50.00	Do.
5098	State v. Frank Klasek	50.00	Do.
5104	State v. Will Webster	50.00	Do.
5105	State v. Robt. Johnson	50.00	Do.
5109	State v. George Payne et al	50.00	Do.
5110	State v. Ed Jehu et al	50.00	Do.
5111	State v. J. C. Wilson	50.00	Do.
5117	State v. W. C. Emerson	100.00	Do.
5127	State v. A. J. Hurth	50.00	Do.
5128	State v. N. J. Kane	50.00	Do.
5134	State v. J. W. Tallaford	50.00	Do.
5136	State v. Henry Huston	50.00	Do.
5137	State v. J. C. Corning	50.00	Do.
5142	State v. Ira Hammond	50.00	Do.
5146	State v. H. D. Bassett	50.00	Do.
5226	State v. W. C. Jones	50.00	Do.
5643	State v. Sam Polick et al	50.00	Do.
5646	State v. Frank Freynick	50.00	Do.

STATE OF KANSAS,
Wyandotte County, ss:

I, Walter P. Mathis, clerk of the district court within and for said county, do hereby certify the within and foregoing to be a true and correct list of liquor cases filed in the district court of Wyandotte County, Kans., and city court, first and second districts of Kansas City, Kans., by Roy H. Hubbard, assistant attorney general of Kansas, where the attorney fees were received by him as shown by the records from the 1st of January, 1919, up to and including the 1st of January, 1923.

Witness my hand and the seal of said court, affixed at my office in the city of Kansas City, this 14th day of September, 1929.

[SEAL.] WALTER P. MATHIS, *Clerk.*
By MILDRED CHRISTIANSEN, *Deputy.*

Mr. TYDINGS. Now let us look for a moment at another side of the fitness of this candidate.

The senior Senator from Kansas [Mr. CAPPER] yesterday showed, by the testimony which he offered here in the form of written documents from which he read, that while Judge Hopkins was serving on the supreme bench of Kansas he was an officer of the Anti-Saloon League of that State, that he came to Washington on one occasion as an officer of that league, that his expenses were paid by that league—and, strange to say, in one or two cases the expenses were exactly $100—and that over a period of years he received somewhere between one and two thousand dollars from the Anti-Saloon League of that State.

Let me say right here that I am not opposed to Judge Hopkins, if I know myself at all, because he may be in favor of prohibition, and intensely in favor of it. I hope that what I may say would apply if he were wet just the same as it may apply if he is dry. It is not that question that I wish to call to the attention of the Senate. The question I wish to call to your attention is that no man who sits on the bench of a State court or the Federal bench should have any strings tied around his hands at all. He should be free from every influence that would interfere with his rendering fair and impartial judgment on any state of facts which may come before him. I think the fact that Judge Hopkins, while a member of the Supreme Court of Kansas, allowed his expenses to be paid by a particular organization of that State, shows a disregard for the fine ethics of a judge, whether State or Federal, which alone, separate from every other incident in connection with his qualifications, should bar him from confirmation by this body.

Suppose he had accepted his expense money to come to Washington or to speak around Kansas from the Association Opposed to Prohibition. There would be little disparity between the two cases, except, perhaps, in this respect, that one favors the existing law; but he still would have had his right of petition. He still would have had his right of free speech. I do not believe that a judge who sees fit to leave the State supreme bench and take part in movements of this kind at the instance and in the pay, at least in part, of the Anti-Saloon League, the Association Opposed to Prohibition, or any other group of particular citizens, has the regard for the ethics of his profession which the judgeship should put in his mind. I am certain that if Judge Hopkins had represented the Association Opposed to Prohibition, if his expenses while serving as a State supreme court judge—which is not controverted—had been paid by that association, instead of by the Anti-Saloon League, we would have said, "This man is unfit, is in the pay, is the tool of certain interests in this country which are inimical to its welfare." But by a strange bit of hocus-pocus he can accept, while on the State supreme bench in Kansas, fees and expense money from a group of citizens intensely interested in the enforcement of one side of a particular bit of philosophy of government, perhaps, without any question whatsoever from those whose philosophy seems to agree with theirs.

Mr. BROOKHART. Mr. President——

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

Mr. TYDINGS. Yes.

Mr. BROOKHART. Does the Senator see no difference between supporting an institution which is in favor of the law and its enforcement, and supporting an institution that is opposed to the law and against its enforcement?

Mr. TYDINGS. Why, of course. That is so axiomatic that I am astonished that the Senator should consume the time of the Senate to propound a question like that here.

Mr. BROOKHART. I notice that these wets can not see the difference in the two propositions.

Mr. TYDINGS. I am very sorry the Senator used that expression, because I said in the beginning, when the Senator was not here, that if Judge Hopkins had received moneys from any other organization while on the bench, apart from the one that he did receive moneys from, my position would be exactly the same, whether they were wet or dry or what not. I am not going to be led into any wet-and-dry debate. My attack here on Judge Hopkins—if I may term it that in a kindly way—is because while he held the power of life and death over the citizens of the State of Kansas, the power to put them behind the bars for life, to take the husband from the wife and children, he had so little regard for the ethics of that high calling, for the power put in his hands without limit, that he allowed himself to come under at least the sheltering wing and influence of an organization, judging from his actions off the bench while serving there as a member, which shows that he did not have the proper regard for the office to which the people of Kansas had elected him.

Mr. BROOKHART. If that organization had been opposed to the enforcement of law or its administration, it would be a different thing. Here is an organization supporting the law, supporting the protection of all honest people and of all honest things, and the Senator denounces that, or the support of that by public officers, as improper. I can not see any sense at all in his position.

Mr. TYDINGS. I am not denouncing it; but does not the Senator, being a lawyer himself, see that Judge Hopkins might be sitting in a case the following week where the Anti-Saloon League might be a party to a suit? Does not the Senator see that the week following his trip to Washington the Anti-Saloon League might have been either the plaintiff or the defendant in a case at bar before his court, and that the judge, being a member of the Anti-Saloon League, a paid agent of the Anti-Saloon League, a high officer of the Anti-Saloon League, could not render the fair and impartial judgment which he should render?

Mr. BROOKHART. The church to which the judge belongs might be a party to a suit.

Mr. TYDINGS. I will not yield any further to the Senator from Iowa. I do not want to get into a religious or a wet-and-dry argument.

Mr. ALLEN. Mr. President——

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Kansas?

Mr. TYDINGS. I yield.

Mr. ALLEN. Do I get the point of the Senator from Maryland to be that he questions the right of men upon the bench to serve in organizations which are making specific studies of specific laws, and the entire question of crime?

Mr. TYDINGS. No; I can not let the Senator put words in my mouth. I will say that the Senator from Maryland is opposed to any man who occupies the position of a Federal judge becoming so much the officer of any organization which is frequently the subject of litigation, directly or indirectly, as to make the other party to a suit, in which that organization might be interested, feel that that judge could not render impartial judgment.

Mr. ALLEN. That would relate to all organizations for the study of crime and enforcement of law, would it not?

Mr. TYDINGS. Oh, no.

Mr. ALLEN. The Senator does not say, then, that the same objection he urges against having a man appointed to the Federal bench who is a member of the Anti-Saloon League, who may be interested in that league's program for the enforcement of law, could not be transferred into an objection against the Chief Justice of the United States serving as the head of the Crime Commission?

Mr. TYDINGS. Let me say to the Senator from Kansas—it perhaps has slipped his memory—that our present Chief Justice of the United States, for whom I have a very high respect and regard, was in this very body a few years ago seriously criticized for doing nothing more nor less than accepting an award from a very wealthy man because Chief Justice Taft was interested in furthering the cause of world peace. I was not here at the time, but I remember reading in the press that many Senators on both sides of the aisle severely criticized the Chief Justice, saying that a man who occupies that exalted position should be so scrupulous in his conduct that he would allow no circumstance or act to cause any citizen of this Nation to lose confidence in the courts.

Mr. BROOKHART. Mr. President, if the Senator will permit one more question, the Senator has intimated that the fact that the case in which a judge might be interested might come before him would disqualify him. That is not the rule. Is it not true that in that kind of a case any judge stands aside and lets another judge try the case?

Mr. TYDINGS. Judges are not expected to stand aside; they are elected to serve, and the very fact that the Senator has admitted that they should stand aside proves he has one foot on my side of the argument. He has just stated that they can stand aside. May I ask the Senator why they should stand aside?

Mr. BROOKHART. Because they may be interested in the particular case before them.

Mr. TYDINGS. Why should a judge place himself in a position so that he would have to stand aside? That is not what he is paid for. That was not the purpose for which the people of Kansas placed Judge Hopkins on the State supreme bench.

Mr. BROOKHART. But there is no lawyer in Kansas who, on the supreme bench, might not meet with cases in which he would have a personal interest, and he would take no part in deciding such a case.

Mr. TYDINGS. Let me say to the Senator that in 99.44 per cent of cases where that situation would arise it would be because, before the lawyer went on the bench, he represented some concern which had litigation which later came before the court.

Mr. BROOKHART. That does not disqualify the man as a judge in any way. He would disqualify himself in any case in which he had an interest.

Mr. TYDINGS. I think the Senator has helped to prove my argument, and I want to give him my warm thanks for that.

Mr. BROOKHART. The Senator is welcome to that construction.

Mr. BLACK. Mr. President, will the Senator yield to me?

Mr. TYDINGS. I yield.

Mr. BLACK. I do not understand the Senator to take the position that no judge should belong to any organization which might, by some chance, have a case in his court in the future. If that is his position, I want to ask him one question. I am not familiar with the case he is presenting, but I do not believe he intends to go to the full length that his argument might indicate.

Mr. TYDINGS. I want to give the Senator a chance to ask his question, but let me interrupt him for a moment. Will he not place in his question the fact that the judge is paid while on the bench by the organization he represents?

Mr. BLACK. Oh, yes.

Mr. TYDINGS. If he will put that in his question, I can answer it with a great deal more ease.

Mr. BLACK. There are judges who belong to fraternal societies which issue insurance policies, societies which are social and fraternal. I have in mind now a judge who was an officer in a nation-wide fraternal society that issued insurance policies. He received some compensation, nominal, it is true, but some compensation, for being the head of that society. He has disqualified himself in numbers of instances from passing on cases which went to the appellate court of the State. Does the Senator think that he should have resigned his place in the fraternal society because, perchance, some insurance case might come before him?

Mr. TYDINGS. No.

Mr. BLACK. I did not think the Senator would go to that extent.

Mr. TYDINGS. I never have said that, and never intended to convey any such meaning. But what a lot of hypocrisy we are now faced with in this body. A few days ago the junior Senator from Pennsylvania [Mr. GRUNDY] occupied the headlines of all the papers, being termed "king of the lobbyists." Then he came into the Senate, and, as I understand it, resigned his connections with all activities of that kind. Why? I would like to have the Senator from Iowa, who had a lot to say about that particular bit of ethics, tell me why the junior Senator from Pennsylvania resigned as a lobbyist when he was admitted to this body.

Mr. BROOKHART. Mr. President, the fact that he was a lobbyist before, perhaps one of the most offensive kind of lobbyists, has not disqualified him from sitting in the United States Senate.

Mr. TYDINGS. No; but the Senator, who saw fit to question him before he became a Member of the Senate, would have been absolutely enraged if he had continued his connections after he came to the Senate; but the Senator from Iowa has no objection to a judge lobbying from the bench, going around and advocating a particular cause while seated in a position where he is supposed to be impartial. The Senator can see no similarity between Mr. GRUNDY, who was fair enough and straight enough and honorable enough, when he was admitted to this body, as I understand it, to sever all his former connections, and a judge who has the power of life and death over the citizens of this land lobbying while on the bench for a particular cause which is the subject of controversy.

Mr. BROOKHART. The trouble with the Senator's expression is that he includes in lobbying a lot of things that are not lobbying at all. I see no objection——

Mr. TYDINGS. If the Senator will permit an interruption, I would define lobbying as I think he means it. If some one is advocating a cause to which the Senator from Iowa is opposed, that is lobbying. If some one is advocating a cause with which the Senator agrees, that is righteousness.

Mr. BROOKHART. The Senator can not describe lobbying the way I mean it at all. He is incapable of seeing lobbying in that light when it comes to the prohibition question.

Mr. TYDINGS. I am glad I do not wear the spectacles of the Senator from Iowa, because I would hardly be able to see anything through them.

It was said that the junior Senator from Pennsylvania, coming down here trying to influence Senators, was no better than the man who was lately prevented from becoming a Member of this body. Yet when the Senator from Pennsylvania becomes a Member of this body he severs all connection with the lobby, so I read, because it would not be the ethical thing, it would not be the fair thing, it would not be the right thing for him to sit in this body and be a party to an influence outside of this body. Yet the Senator from Iowa has no objection to lobbying from the Federal bench; he has no objection to Judge Hopkins being so partisan that he leaves the bench, where he is supposed to render fair and impartial judgment in cases coming before him, and going around and lobbying about a matter that may be the subject of consideration by the court.

Mr. BROOKHART. Now, if the Senator will permit one more question——

Mr. TYDINGS. I yield.

Mr. BROOKHART. Would the Senator vote to exclude the junior Senator from Pennsylvania if he should go out making speeches for the same tariff rates he advocated while representing the lobby?

Mr. TYDINGS. I do not pass on cases until the evidence is presented. I have some little respect for my fellow man and do not wish to decide a question on mere statements without evidence, and I would advise the Senator to follow my example.

Oh, Senators, what have the courts of this country come to? As the descendants of men who thought enough of principle to fight in the Revolution for local self-government, to fight for the principle "No taxation unless we have representation"; men who went down to Runnymede and wrung from that despot, King John, the Magna Charta; men who, before they would join in adoption of the Constitution, insisted on the first 10 amendments being made a part of it to guarantee that thing for which they had suffered and fought, will we sit here and say to a man seeking the office of a Federal judge, with the power to rule in a case involving your life or my life, to put us forever behind the bars, "Off the bench you may be interested in these other questions; you may receive pay, in part, from organizations; you may have your expenses paid by these organizations"? Have we so little regard for the Federal bench that now we would say that is of no consequence? The poor man tremblingly awaiting the sentence of the court will stand before Judge Hopkins. I want him to have a fair deal. I do not want to have a man on the Federal bench, whether it be on the circuit, the district, or the Supreme Court, against whom

the slightest finger of partiality can be pointed, or against whom any facts showing partiality can be cited.

I suppose such pleas as that in this day are of little consequence. He has the recommendation of the political machine in his own State. He is a war horse in the traces of politics, and we have to take care of this gentleman, who has rendered valiant service to the cause.

I would like to propound to the Senator from Iowa [Mr. BROOKHART] a question. The Senator from Iowa has just been conducting a very searching investigation into the conduct of a certain member of another body who, while acting as chairman of a committee dealing with the affairs of the District of Columbia, has apparently sought to carry on what to all intents and purposes was a legitimate business. The Senator has been very active in that investigation and a great deal of the evidence that he has adduced has been turned over to the court, and upon that evidence the particular Member of the House of Representatives has been indicted and will soon come up for trial. Does the Senator from Iowa think it is perfectly proper for a man to be chairman of the Committee on the District of Columbia, dealing with the affairs of the city of Washington and engaged in the real-estate business in the city of Washington at one and the same time?

Mr. BROOKHART. Mr. President, I presume the rules prohibit me from making observations against any Member of the House, but I see no parallel in the proposition presented by the Senator from Maryland. If the rules would permit, I would express a very emphatic opinion upon the proposition. I have expressed it elsewhere.

Mr. TYDINGS. I will make a case so the rules will permit an expression. I want to assume a case that does not exist, a purely hypothetical one, without mentioning the name of anyone. We will suppose in a very high legislative body a member is chairman of the committee on the affairs dealing with the community in which the legislature sits. We will suppose that while acting virtually as mayor of the city in which the legislature sits the member is engaged in real-estate operations, and as such buys and sells lands and opens streets and what not. Does the Senator see anything wrong with that particular situation? The Senator can answer that question under the rule.

Mr. BROOKHART. If he were acting in accordance with the law in every particular and in good faith, I do not know of any law of any city to prevent the mayor from engaging in the real-estate business any more than in the law business or any other business.

Mr. TYDINGS. Then I understand perfectly why the Senator from Iowa can be in favor of the appointment of Judge Hopkins to the Federal bench.

Mr. BROOKHART. But if in the supposed case he were engaged in a fraudulent scheme to defraud the people, he ought to be in the penitentiary.

Mr. TYDINGS. But if the scheme were not fraudulent, the Senator sees no line of demarcation at all. I can understand how the Senator can differ with me in this particular case, and I am much obliged to him for answering my question.

But here is the thing I have saved for the last, to which I hope, more than anything I have said before, Senators will give an attentive ear and that it will find response in the minds of those who claim to be the friends of impartial courts and of equal rights to all men before those courts and of decency in law enforcement. I have the case in full, but because the salient facts of it are so well put in this very short editorial, I shall read the editorial in order to call the facts in question to the attention of the Senate. Upon those facts Judge Hopkins rendered the decision of the court in Kansas. I shall omit the first part of the editorial and come down to the case in point:

> An informer named Galen Finch had told the Kansas attorney general of the operation of a still in Topeka.

Mark you, Mr. President! Listen to this, Senators:

> The county attorney and the sheriff raided the premises and arrested the obvious owner, who subsequently pleaded guilty. He revealed, however, that the informer had been his partner in the illegal enterprise. The evidence showed further—

And here is the point—

> The evidence showed further that no still was in operation when Finch tipped off the attorney general, but that the informer had bought the equipment, carried it to the appointed place, and shared in its operation.
>
> The county attorney thereupon proceeded against the informer, in the face of the attorney general's objections, and obtained a conviction. Besides acting as defense counsel, the attorney general took an appeal to the State supreme court, which reversed the lower body. The supreme court's opinion, written by Hopkins—

The appointee in this case—

> has struck many lawyers as an amusing document—in fact, a revolutionary one.
>
> In the opinion of many lawyers, it gives the governor or attorney general authority to promise immunity before rather than after the commission of a crime. It permits these same two elective officials to dictate to the courts. It transfers the administration of justice from the bench to a prosecutor's office, which is all too frequently occupied by a machine politician.
>
> Judge Hopkins held that if the attorney general "thought"—

And the word "thought" is used in the editorial in quotation marks—

> "thought" the prosecution of Finch would be "a detriment rather than an aid to enforcement" of the dry laws, it was "not only his power but his duty to take charge of that particular prosecution and conduct it to his best judgment."

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

Mr. TYDINGS. I will yield in a moment. I want to finish what I have in mind first, because I have something I want to try to get over to the Senate.

Here was the case of a man who had committed and was committing no wrong. An informer named Finch came to that man and said, "Let us go into the liquor business." The man said, "I will do that with you." The informer bought the still and with his own hands carried most of the equipment and helped to erect the still, and then the two of them made some liquor and sold it. After they had been engaged in the operation for some time the informer tipped off the county officers and the place was raided and the case came to trial. Now, mark you, the informer did not go into the place and find the still in operation. He did not go into a speak-easy and buy some liquor and find the liquor was there. But he came up to a man who, as far as the case discloses, had committed no wrong at all, and invited him to commit a crime, and after he had committed that crime the county attorney thought the informer was equally guilty—and I think more guilty—with the man who was then on trial, so he indicted both of them. The attorney general defended the informer and carried the case to the supreme court, where Justice Hopkins held that if the attorney general "thought" that by aiding this man he would serve the law and the order of the State of Kansas it was his duty to defend that informer.

That is only preliminary to this statement. If I may use, without offense and without a violation of the rule of the Senate, the name of my friend from Kansas who sits opposite me, I want to make him a proposition. "Senator CAPPER, I would like to murder the Vice President. I know you are not thinking of that, but if you will help me murder the Vice President, I feel that you perhaps might sit in his seat." I may say parenthetically that of course I have no intention of assassinating the Vice President. "You agree to my proposition. I buy you the gun and give it to you and you shoot down the Vice President. Then I tip off the law-enforcement officers that you have committed that crime, and the Attorney General of the United States comes in and defends me and you hang."

In other words, I plant the seeds of crime in your mind when you were not thinking of it, furnish you with the implement of crime when you were not thinking of it, to all intents and purposes, and then, after you commit the crime, I tip off the Attorney General and he defends me and gets me off, while you go to the penitentiary.

There, Mr. President, we have the judicial philosophy of this great judge in Kansas. I might say to some man in Kansas, to illustrate my point purely hypothetically, "Let us set fire to the printing establishment of my good friend, Senator CAPPER, of the Topeka Capital." The man would reply, "I never thought of that before in my life." I say, "Let us do it. We might be able to steal something before we set fire to it and the fire will cover up the crime of theft." I provide the matches and the dynamite and the coal oil and we set fire to the printing establishment of the Senator from Kansas in Topeka and then I go and tell the Attorney General about it, and the Attorney General defends me, but sends the other incendiary to the penitentiary for life. That is what Judge Hopkins said is necessary in the enforcement of law in Kansas.

Mr. NORRIS. Mr. President, will the Senator give us a citation to the opinion of the Kansas Supreme Court?

Mr. BLACK. Mr. President, if the Senator will yield I have the case right here in my hand.

Mr. TYDINGS. I yield to the Senator from Alabama.

Mr. BLACK. I have understood that Judge Hopkins had held in line with what the Senator from Maryland has stated. I am very frank to say that I had intended to vote against him on

that ground. For that reason I asked to see a copy of the opinion, which I obtained from Senator CAPPER.

Mr. NORRIS. Will the Senator tell us in what volume it may be found?

Mr. BLACK. It is found in the July term, 1929, No. 28526, in the court of appeals of Kansas. That is as near as I can come to it. I just want to say to the Senator from Maryland that the way I construe it is this—and I do so in order that the Senator may discuss it from that viewpoint.

Mr. TYDINGS. All right; I am glad to yield to the Senator.

Mr. BLACK. I had understood the supreme court held that the attorney general had the right to nullify the crime or the statute in a case, and if such a decision had been made by this gentleman I would undoubtedly have considered that as an excellent ground for voting against him. I do not know about the other facts, but here is what was held in this case. There was a conflict between the attorney general and the district attorney as to whether or not a case should be dismissed. The question upon which the supreme court decided the case in the opinion written by Judge Hopkins was as to that conflict of authority. The supreme court held unanimously that the attorney general under the laws of Kansas had the absolute right to direct the control of the prosecution and to bring about a dismissal upon any ground he saw fit, and that, therefore, when the attorney general had requested a nolle-pros of the case, it was error for his motion not to have been granted.

It was based not on the power of nullifying the statute, as I read the opinion, but wholly and completely upon the authority of the attorney general under the laws of Kansas to control the prosecution.

Mr. TYDINGS. Let me say to the Senator from Alabama, because I was coming to that, but he did not give me a chance to get there, that I have not the direct quotation, I am sorry to say. I had it yesterday, but I have misplaced it. However, I remember the words very well, and while I will not quote them exactly as the judge uttered them, yet in substance they mean—and this is philosophy, it is not law—that where the attorney general or his agent has reason to believe a crime may be committed he is authorized and empowered to further the doing of that crime in order that he may apprehend a criminal. Is that true?

Mr. BLACK. I do not so understand it from the opinion.

Mr. TYDINGS. That is almost exactly quoted. If those are not the exact words, I am sure that the meaning is contained in the words used in the opinion.

Mr. CAPPER. Mr. President——

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Kansas?

Mr. TYDINGS. I yield to the Senator.

Mr. CAPPER. I am not prepared to argue the question from the legal standpoint, but I desire to say that the Senator from Maryland is misinformed; that he is not correctly interpreting the decision. The Senator from Alabama [Mr. BLACK] has stated it correctly. Let me make this statement——

Mr. TYDINGS. There is no issue between the Senator from Alabama and me. What I have done is simply to quote from Judge Hopkins's own opinion.

Mr. CAPPER. And this decision by Judge Hopkins was the unanimous decision of our supreme court.

Mr. TYDINGS. That is correct.

Mr. CAPPER. Every judge of the court stood with Judge Hopkins in his position.

Mr. TYDINGS. That is true.

Mr. CAPPER. There has been no criticism of it in the State of Kansas.

Mr. TYDINGS. I am going to read to the Senate editorials from some of the leading newspapers in Kansas criticizing the decision very severely.

Mr. CAPPER. There was no editorial criticism in Kansas which received any serious attention so far as I have been able to learn.

Mr. TYDINGS. I shall read this one from a newspaper next door, a Scripps-Howard newspaper, and certainly of some consequence to all men who are in public life. I refer to the Oklahoma News, which has a substantial circulation just over the line from the State of Kansas, where it is published. It is headed "A Prospective Federal Judge," and it was printed November 15, 1929, in Oklahoma City, Okla. The point I make is that while the question of law on which the case went from the lower to the higher court is, I believe, as represented by the Senator from Alabama, yet in rendering the opinion to carry out that particular decision the judge used, in substance, the expression which I have just attributed to him.

I leave it to any Member of this body who has read law one day or has practiced law for any time at all or who has any familiarity with legal precepts to say whether that is good law. If it is, then all the law schools of the country had better nail up their doors and we had better let anyone practice who wishes to do so, because it is a most atrocious violation of the amendment to the Federal Constitution, of the long line of common law which has been transplanted into statute law, and of the philosophy of Anglo Saxon decisions.

I wish to place in the RECORD numerous short editorials. I place in the RECORD first an editorial to which I have referred. I shall read some of them and then ask that others be printed en bloc. Here is one of December 10, 1929, from the Topeka State Journal, which is published in Topeka, Kans. It is short and is headed "The Judicial Mind," and reads as follows:

> The "judicial mind" at its best: A State Journal reporter telephones Justice Hopkins for an interview on the Howe charges. The State Journal had not, at the time of the telephone call, printed a line about the charges. This newspaper was attempting to give both sides of the incident. The judge was so angry, however, because of political differences with this newspaper in the past, that he would talk about nothing else. And then when the reporter attempted again to give Justice Hopkins an opportunity to explain or deny the Howe charges, he hung up in the reporter's ear. It is the most insulting thing a man can do, of course; it is an expression of superindignation. But is it the "judicial mind"?

Yes; that is infinitesimal; I admit it is merely a flippant newspaper editorial; but it is from the State of Kansas, where the judge lives; he is a public official; he is on the pay roll which is contributed to by all taxpayers in the State. Nevertheless, he seems to have forgotten his judicial temperament.

Everyone here knows that the constitution of the State of Kansas contains this very significant provision, which I will read verbatim:

> The justices of the supreme court and judges of the district courts shall at stated times receive for their services such compensation as provided by law, which shall not be increased during their respective terms of office: *Provided*, That such compensation shall not be less than $1,500 for each justice or judge each year, and such justices or judges shall receive no fees or perquisites—

Now, listen—

> nor hold any other office of profit or trust under the authority of the State or of the United States during the term of office for which the justices and judges shall be elected.

In other words, the plain, apparent, and evident intent of that provision of the constitution is to take the judges out of politics; and it provides that during their term of office, for the length of their term, they shall hold no other office whatsoever. I am ready to concede that that provision in the State constitution of Kansas is, perhaps, in conflict with the Federal Constitution. Nevertheless, it is the sentiment and the legal expression of the voters of Kansas, who require of their judges that they shall hold no other office during the terms for which they are elected. Yet Justice Hopkins, after having been elected to the State supreme bench, is going to resign and violate the constitution of his own State.

Mr. CAPPER. Mr. President, will the Senator yield to me for just a moment on that point?

The VICE PRESIDENT. Does the Senator from Maryland yield to the Senator from Kansas?

Mr. TYDINGS. I yield.

Mr. CAPPER. I wish to read to the Senate a telegram which I have received from William A. Smith, attorney general of the State of Kansas, dated November 14, 1929, in which he says:

> TOPEKA, KANS., *November 14, 1929.*
>
> Kansas constitution and statutes do not affect Hopkins appointment. A State has no control over elegibility or qualifications of officers of the United States. If a State judge accepts office under Federal Government the latter permits him to perform his duties and receive its emoluments. Judges Brewer and Pollock both appointed to Federal judgeships during terms on supreme court, Brewer with four years unexpired term and Pollock with approximately five years unexpired term. S. R. Peters also elected to and served in Congress during term for which he had been elected district judge. William H. Thompson elected and served as Senator during term for which he was elected district judge. Charles I. Sparks elected and now serving in Congress during term for which he was elected district judge. Other instances may be cited. No member of supreme court nor other lawyer of standing in Kansas, so far as I am aware, questions Hopkins's qualifications on this ground. Hope confirmation may not be delayed. Term Federal court at Fort Scott already twice postponed pending confirmation.
>
> WILLIAM A. SMITH,
> *Attorney General.*

The Senator is entitled to make the contention he is now making, but the attorney general of Kansas states the facts.

Mr. BLAINE. Mr. President——

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

Mr. TYDINGS. I yield to the Senator.

Mr. BLAINE. Permit me to suggest to the Senator from Kansas that the Supreme Court of Kansas, according to a very well-considered case which I expect to discuss during the debate, thinks quite differently than as expressed by the opinion the Senator has just read.

Mr. TYDINGS. Mr. President, I wish now to refer to another phase of this case. I know the Senator from Kansas is not even going to question the accuracy of the statement I shall now make. While Judge Hopkins was attorney general of the State he allowed one of his assistants to be upon the regular monthly pay roll of the Anti-Saloon League at $100 a month. I should like to ask the Senator if that is not correct?

Mr. CAPPER. Will the Senator repeat his question; I did not catch it in full.

Mr. TYDINGS. I said that during Judge Hopkins's term as attorney general of Kansas, one of the assistant attorneys general appointed by him was on the pay roll of the Anti-Saloon League of Kansas at $100 a month.

Mr. CAPPER. This is the first time such knowledge has come to me.

Mr. TYDINGS. It is an absolute fact, and my authority for it is the former superintendent of the Anti-Saloon League, to whom reference is made in the various marked portions of different Kansas journals, telling about the activities of Mr. Crabbe, who was afterwards superintendent, and of Mr. Hopkins and various others concerned therein.

The point is, the State of Kansas, mind you, is so poor—and I say this sarcastically, of course—the State of Kansas is so hard up for tax revenues and the attorney general has such a high regard for his office that he permits those who are charged with enforcing the law impartially to be upon the pay roll of a particular organization in that State.

I do not understand why some of the attorneys in Kansas have not been disbarred. Certainly if the information were made public in Maryland concerning activities of that kind, I believe that it would result at least in a trial of the attorneys charged with such offenses. The attorney general of most of the States is bound to be under obligations to no one, so that he may enforce the law without favor to any group, person, or corporation. Yet Mr. Hopkins consented to have Mr. Griffith, an assistant attorney general, receive regularly from the Anti-Saloon League a salary of $100 a month while Hopkins was acting as attorney general of that State.

I am not going to weary the Senate, particularly when there are so few Senators present at the moment, with reading excerpts from the Topeka State Journal for a period of several weeks during which all of the facts were aired and long columns were printed on its front pages. I will merely read the headlines of a few of the articles.

Mr. ALLEN. Mr. President, may I ask the Senator if he will give us the dates?

Mr. TYDINGS. Yes, I will; in fact, I will give the Senator the whole volume in which the newspapers are bound if he so desires. I read, for example, the following:

DECEMBER 17, 1925.—Drastic probe suggested by Dr. M. W. Baker. Anti-Saloon League must put forth clean hands. Former worker even favors criminal prosecution. Puts matter up to State. Officials should locate responsibility, Doctor Baker says. Public has no faith in plan requiring secrecy. Petitions ask an accounting. Public remonstrance against policy finds expression. "Cards should be laid on the table," document reads.

That is the headline in one day's issue. I will say that the article under the headline is very illuminating, but some of it is a repetition, and the story runs through the newspaper for several days. I am merely calling these headlines to the attention of Senators who may wish to verify what is stated.

I read another headline:

TOPEKA, KANS., Friday, December 18, 1925.—Hopkins and Griffith for years hid facts from State officers. Took oath that they received no special compensation as law-enforcement officers despite checks received from Anti-Saloon League. State auditor was suspicious and made investigation. Turner thinks public should have records.

And so on, with many other headlines, all on the front page.

Here is another one:

SATURDAY EVENING, December 19, 1925.—Dr. Charles M. Sheldon calls on Anti-Saloon League for the truth. Internationally known leader and divine appeals to churches of Kansas to close their pulpits to league until public accounting is given. Schaibly got in bad because of Pratt note.

I will not read the charges which follow. The reason I am reading these headlines in the Topeka State Journal is to show that Mr. Hopkins and Mr. Griffith led the public of Kansas to believe that they had not received a single cent, while all the time Mr. Griffith was on the pay roll of the Anti-Saloon League at $100 a month at the same time he was assistant attorney general under Hopkins, and Judge Hopkins received in the neighborhood of $1,500 in twenty-some checks, four of them being for $100 each and one for $150. He said it was for expense money.

To show that the dry people were not a unit in this matter, I read another headline in the Topeka State Journal for December 16, 1925:

Shawnee Women's Christian Temperance Union demands probe league affairs.

Another headline on December 15, 1925, reads:

Coffeyville men want to know what became of the $600 paid to Crabbe.

Let me say as to that very situation that Mr. Crabbe himself, as chairman of the Anti-Saloon League of the State of Kansas, in a public statement said that the conduct complained of was absolutely reprehensible; that is what he said about it himself; and Mr. Hopkins was the man who defended it. Furthermore, while Mr. Hopkins was on the bench he went on a note with a certain high public official for $2,000 to repay the Leavenworth Law Enforcement Association for money they had raised but which had not been expended, so that it could be returned. I do not mean that Mr. Hopkins was dishonest in the transaction; I do not mean that at all.

Mr. ALLEN. Mr. President, may I interrupt the Senator there?

Mr. TYDINGS. Yes.

Mr. ALLEN. But the Senator does criticize any group of citizens for raising money for the enforcement of the law?

Mr. TYDINGS. I criticize any Federal judge who gets in neighborhood brawls, because he may have to pass on them later on, and should come into them with his hands clean. No Federal judge or county judge has a right to take sides in neighborhood confusion, brawls, and partisan contests. He must be there, the court of last resort, fair, clean, unbiased, impartial, to pass judgment upon the case when it comes to him.

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

Mr. TYDINGS. Yes; I yield.

Mr. ALLEN. May I say to the Senator that out in Kansas an effort to enforce the law on the part of the attorney general and others favoring the law is not regarded as a community brawl?

Mr. TYDINGS. If enforcing the law means going around and getting a citizen who is absolutely innocent to go into the liquor business so that he can be arrested, then I think there is all the more reason why a judge in Kansas should not align himself with that element.

Mr. ALLEN. Mr. President, may I address the Senator again?

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Maryland further yield to the Senator from Kansas?

Mr. TYDINGS. Yes.

Mr. ALLEN. We have not any innocent citizens of Kansas who can be induced to go into the liquor business.

Mr. TYDINGS. I am sure Kansas has just about as many good citizens in it as any other State has.

Mr. ALLEN. The Senator was talking about "innocent citizens."

Mr. TYDINGS. Far be it from me to say that they have less. I think that in that case charity and other things should begin at home.

Here is a page of affidavits and photostats showing the checks paid to Judge Hopkins and to Mr. Griffith, showing that they were paid regularly monthly. This is the Topeka State Journal of Thursday evening, December 10, 1925.

I am not going to consume more of the time of the Senate. In 5 or 10 minutes at the outside I am going to finish. There are other things in this case, but enough has been told to give you, I think, an idea as to whether you want to confirm or reject the appointment of Judge Hopkins.

In the first place, it has been shown that notwithstanding the statutes of the State of Kansas provided that the attorney general shall make regular accounting for the fees that come into his office, he did not live up to the statute.

In the second place, it has been shown that in two counties he collected over $3,000 more in fees than he turned in for the whole 105 counties of the State of Kansas.

I do not mean to say that he was dishonest about this, perhaps; but I do mean to say that he did not show that degree of care, that degree of consideration, that degree of confidence and respect for the public moneys of the State of Kansas which

should be required to qualify him to sit upon the Federal bench of the United States.

I have also shown you that since he has been on the bench he has received several checks from the Anti-Saloon League of Kansas; that he is an official of the national Anti-Saloon League, and as such, while on the bench, he came to Washington and took part in their national councils.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Maryland further yield to the Senator from Kansas?

Mr. TYDINGS. I do.

Mr. ALLEN. I know the Senator would want to be corrected. Judge Hopkins is not now an official of the Anti-Saloon League. He served out his term during his first term as a member of the supreme court.

Mr. TYDINGS. I think perhaps that is true.

Mr. ALLEN. It is undoubtedly true.

Mr. TYDINGS. But I do say, and repeat, that while he was judge he thought so little of keeping himself in an impartial attitude that he did receive moneys from the Anti-Saloon League of the State of Kansas; and nobody will deny that.

I have also shown you what the philosophy of the man is who in writing the opinion of the court in the case I have mentioned did not use the opportunity to condemn the practice of going around and taking an innocent citizen who, up to that time, had done no wrong, inveigling him into crime, and then, after he committed the crime, having him arrested and tried and sentenced. Judge Hopkins said not a word about that practice.

I conclude he will be confirmed. Pontius Pilate was confirmed by the Roman Senate. He was learned. He was loved by his constituents. He had the admiration of all the people who knew him. He was clean. Everybody loved him. He was supposed to be fair and high-toned. To-day all over Christendom where the little churches stand they worship the man that this great judge condemned to death.

Put Hopkins on the bench. I do not think he is dishonest in the sense that he is a direct thief or an indirect thief. I think perhaps his greatest crime in reference to handling this money is that he was careless about it. Even though the evidence seems to point to the fact that he received more money than he turned in, I do not believe that he actually put it in his pocket. I do not want to make that charge; but I do make the charge that no man occupying the position of attorney general of the State should permit himself to be placed in such an embarrassing position that it is shown that he received more moneys than he turned in because no books or papers were kept to show what he actually did receive, although the State law compels him to keep such books and papers.

I can not reach the conclusion that this man has the proper judicial temperament to have power without limit over the lives of the citizens of Kansas. He can order them hung. He can put them in jail for life. He shows himself to be a great partisan. Every judge should be nonpartisan and impartial. I think his training with the Anti-Saloon League, the violence of his opinions, his conduct in receiving salaries from that organization, stamp him as unable to exhibit that degree of impartiality which should characterize the activities of a judge.

I shall not burden the Senate further. I know he will be confirmed, because he is good, because he was formerly attorney general of Kansas, because he is now on the supreme bench, and because the President, carrying out his policy of selecting the very finest men he can find in this land for that position, has selected Judge Hopkins because he ranks in that class. I therefore shall conclude and turn over the matter to the Senator from Kansas and to others who may wish to discuss it, asking permission first to insert in the RECORD these various newspaper editorials.

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

The matter referred to is as follows:

[From the Topeka State Journal of November 19, 1929]

PROBLEMS OF THE PRESIDENCY

When President Hoover sent the name of Richard J. Hopkins to the Senate for position of the United States district judge, the lawyers and business men of Kansas, remembering the many statements of the President that judicial appointments were to be made on account of ability and not because of politics, knew he must have been misled.

But they do not appreciate problems of the Presidency.

This country has become so vast, responsibilities are piled so high upon the President, that he must rely on the judgment of someone. He had his choice between recommendations of his Attorney General and recommendations from the governor and two Senators from this State. He chose the latter.

Standpoint of the Senators is understandable.

Neither of them are lawyers. Judge Hopkins has been attorney general. He has been on the supreme bench. For many years he has devoted himself vigorously and sincerely to carrying the doctrine of prohibition to every part of the State. He has built a strong personal following—one that would enable him to be elected to almost any office. That this has been done at the sacrifice of his training as a lawyer is but a sidelight. That lawyers of the State preferred a judge of outstanding legal qualifications—any of 50 available—was but mere proof to minds of Kansas Senators that Federal court lawyers were part of a gang.

That isn't all.

Kansas Senators would have been little less than human had they forgotten Judge Hopkins's personal following among the voters. It must be remembered that both Senators as well as the governor come up for reelection next year.

One need only read the list of recommendations that came from Kansas in behalf of Judge Hopkins to know that his appointment was purely political. There is a large number of local chapters of the Anti-Saloon League and the Women's Christian Temperance Union—excellent people and fine citizens—but hardly equipped to pass upon the relative competency of judges. The list bristles with chairmen of county committees, State and county officials—also good men—but who, generally speaking, are better equipped to diagnose vote-getting power than professional acumen. Of 1,700 practicing lawyers in the State, 5 or 6 appear on the Hopkins list with a statement that "59 other members of the bar of Topeka"—identity not disclosed, if you please—indorsed Hopkins.

This is strange. Three lawyers appearing really and truly have had cases in the United States district court.

It is, of course, a purely political appointment.

Conclusion, though, does not follow that the President does not mean what he has said. He has simply been misled.

In the meantime we should not lose our faith in the President. There still is a Federal court doing business in Kansas. Time may solve the problem. In the meantime—well, Kansas will muddle through some way.

[From the Baltimore Evening Sun of December 2, 1929]

HOW MR. HOOVER UPLIFTS THE FEDERAL JUDICIARY

By W. G. Clugston

TOPEKA, KANS.—Sometime soon—within the next month, perhaps, if the gods of patronage are propitious—the United States Senate will take up for confirmation, or rejection, the appointment of Richard J. Hopkins to the Kansas Federal district court bench. The coming event casts a shadow of considerable national significance, because if Justice Hopkins (he is now a justice of the Supreme Court of the State of Kansas) takes his seat on the Federal bench it will mark the blowup of the loudly proclaimed determination of President Hoover's administration to raise the judiciary above the low plane of political patronage.

That the Hopkins appointment is purely political is conceded on all sides. It was forced by the Anti-Saloon League and Senators ARTHUR CAPPER and HENRY J. ALLEN, the two Christian statesmen from the Sunflower Commonwealth, along with the backing of one of the key-position newspapers which helped to engineer the Hoover nomination at the Kansas City convention. A majority of the outstanding members of the Kansas bar who practice in the Federal courts opposed the appointment on the grounds that the candidate was not qualified as a lawyer, and that he lacked the judicial temperament. Attorney General Mitchell refused to recommend the appointment after the Department of Justice had investigated the gentleman's career. Victor Murdock's Wichita (Kans.) Eagle stated that even Chief Justice William Howard Taft and Charles Evans Hughes let word reach the White House that they themselves would never stoop to such a degradation of the appointive power. But CAPPER, ALLEN, and the Anti-Saloon League, with the newspapers they control, set up a cry that only the "wets" were opposing the appointment! They cracked the whip over Mr. Hoover's head with a great display of diplomatic determination; the Topeka State Journal has editorially charged that they deliberately misled the President. Then, as soon as the appointment was announced they proceeded to use their publicity powers to silence much of the Kansas opposition by making it appear that those who were still complaining were only working in the interest or in the pay of the "wets."

In addition to the showing that was made as to his lack of legal qualifications there are many other things connected with the Hopkins public career which, in view of its national significance, might seem to bear upon his appointment to the czarlike position of a Federal judge. For instance:

"It has been shown by public records that while serving as a State law-enforcement official he accepted money from an organization which had a partisan interest in the affairs of his office; and that he permitted funds for his campaign to the supreme court bench to be spent through

this organization. The records show that in becoming a candidate for the Federal bench while serving on the State supreme court bench he proposes to violate his oath to support the constitution of his State. It has been shown by official records in the State capitol at Topeka that when he was attorney general of the State he did not comply with the law requiring him to report and account for fees collected by his office in the prosecution of liquor and gambling cases."

Can the United States Senate afford to confirm for a life appointment on the Federal bench an individual with a record like this? Many in Kansas did not believe the President would ever appoint him; but since the appointment has been forced—at the sacrifice of the administration's publicly proclaimed high ideals—plain plug citizens who still have ideals do not know what they should expect. Plain plug citizens, however, do have the right to ask questions and draw conclusions. They have a right to ask why a public official should be allowed to accept money from the Anti-Saloon League any more than from the Manufacturers' Association or any other group of citizens.

Justice Hopkins declares the money he got from the Anti-Saloon League was merely to pay his expenses as a league orator and exhorter. What difference does this make? Anyway, the records show that as a State official he drew a total of 24 checks from the Anti-Saloon League: that 5 of these checks were for an even $100 each; that 1 was for an even $150; and the balance were for varying smaller amounts. Did you, honest reader, ever make five different trips in the course of four years where your expenses totaled an even $100 on each trip? But, perhaps, you do not know how to travel on a budget—the question is withdrawn.

Now, as to Mr. Hopkins's ability as a law-enforcement officer to comply with the laws he was sworn to enforce. Records in the State accountant's office in Topeka show that Hopkins, as attorney general, failed to make proper accounting for the fees taken in by his snooper assistants, even after his attention was called to the legal requirements. On June 2, 1920, J. N. Atkinson, who had been appointed State accountant by Senator HENRY J. ALLEN, who was then governor, reported that paragraph 10762 of the General Statutes of 1915, providing for the keeping of such records, was not being complied with. In his official report Mr. Atkinson said:

"When we made a request for such a record we were informed that none had been kept. Without such a record it is impossible for us to check up the various actions in which a fee or fees may be due this office."

Hopkins had been serving as attorney general a year and a half when this report was made. More than a year and a half later, on February 13, 1922, State Accountant J. F. Elston, another auditor appointed by Mr. ALLEN, used still stronger language in condemning Hopkins as attorney general for failing to comply with this law. Mr. Elston said:

"The attorney general keeps no record of cases handled by special assistants who are appointed for the purpose of enforcing the prohibition and antigambling laws. The only record made is when the attorney fees are remitted. This being the case, there is no original source of evidence of these collections to be checked by this department. The only way by which these collections could be checked to their original source would be to check the district court records whenever the assistant attorneys general have prosecuted cases and thereby get records of the attorney fees allowed by the courts. There were no fees reported from July 1 to December 31, 1921."

N. A. Baker, assistant State accountant, then recommended in the same transmittal:

"I would recommend that the attorney general require reports from all assistants in the field. A record can be kept in his office showing the fees to the State and when they are paid. This would give us a fair record for checking the amounts that come into this department."

Mr. William Howe, secretary of the Kansas State Federation of Labor, has checked the records of the courts of Wyandotte County and has obtained a certified copy of these records showing that approximately $13,000 was collected in fees in this one county during the time Hopkins was attorney general, while the State accountant's records show the collections for the whole State of 105 counties amounted to only a few thousand dollars more. It is not necessary to raise the question of Justice Hopkins's personal honesty in this matter. Grant that he didn't even think of taking a dishonest penny. But is a lawyer who could not comply with the laws of his own State when he was the chief law-enforcement officer of the State the kind of man to be chosen to enforce the Federal laws?

No platform speaker in Kansas, or the Middle West, has ever done more exhorting about the citizen's obligation to live up to the letter of the constitution than Justice Hopkins. In the eye of many he has positively become fanatical about this subject. Yet in becoming a candidate for Federal judge while serving a term as State supreme court justice he is plainly disregarding his own sworn oath to support the constitution of his own State. Of course, he took an oath to support the State constitution when he was sworn in last January. Section 13 of article 3 of the State constitution says:

"The justices of the supreme court and judges of the district courts shall, at stated times, receive for their services such compensation as provided by law, which shall not be increased during their respective terms of office: *Provided*, Such compensation shall not be less than $1,500 to each justice or judge each year, and such justices or judges shall receive no fees or perquisites, nor hold any other office of profit or trust under the authority of the State or the United States during the term of office for which such justices and judges shall be elected, nor practice law in any of the courts of the State during their continuance in office."

This provision unquestionably was put into the State constitution to try to keep the State judiciary above the low plane of political jockeying, and to make it less likely that the judges would have their minds distracted from their important legal responsibilities by political ambitions. No one, of course, claims that a State constitution can fix qualifications for Federal officeholding. But must we have for Federal judges men who preach strict observance of constitutional provisions and who then go out and disregard these same provisions in order to seek lucrative jobs of life tenure?

As I have tried to point out, the people of every State in the Union have a very vital interest in this confirmation procedure, which will come up when the gods of patronage seem propitious. Aside from the way the appointment has already wrecked the announced plan to raise the Federal judiciary to a higher plane, the people of every community have an interest—a personal interest—because of the fact that Federal judges of one State are often sent into other States to hold court and to hand down justice. There can be no assurance that the Kansas Federal judge will not be sent to Maryland or Montana to hold court; there is nothing to give assurance that he will not carry his Anti-Saloon League code of ethics into Arkansas, Idaho, Illinois, and every corner of the country.

[From the Marysville (Kans.) Advocate-Democrat of November 28, 1929]

MORE POWER TO THEM

Confirmation of the appointment of Richard Hopkins, Kansas Supreme Court judge, to a place on the Federal district bench in Kansas has been blocked in the United States Senate for the present term. Action for or against the nomination is expected to be taken at the next talkfest, which is scheduled to get under way in December.

It is significant that of all the nominations submitted by President Hoover only two objections were voiced in the Senate, the one against Mr. Hopkins and one against an easterner. Rather than delay action upon the whole slate, friends of the two agreed to let them hang fire until the next session, when the whole matter will be threshed out.

President Hoover himself was the first to balk when the name of Justice Hopkins was placed before him for a Federal judgeship. Admitting that Justice Hopkins had nice hair and wore becoming clothes, the President, always a stickler for efficiency, asked if the gentleman from Kansas was qualified.

Governor Reed came forward and assured the President that Justice Hopkins had been in the Federal building in Kansas City several times to his certain knowledge.

"And you just ought to read some of his decisions," Governor Reed enthused.

President Hoover assigned this task to Attorney General Mitchell. Whereupon the Attorney General selected an armload of Kansas decisions, turned on the reading lamp, and settled down for a night of it. The next morning he told the President he feared Justice Hopkins might show up for service in a white robe instead of the regulation black gown were he given the job. And that was that.

But the Kansas delegation in Congress has been persistent. Its members have conveyed the impression to the President that there is no other man in the State qualified to handle the work. Without Mr. Hopkins on the Federal bench the State will go back to sunflowers and the stream of justice will come to a standstill, they have argued.

President Hoover placed him in nomination. Several weeks ago his name was transmitted to the Senate. Opposition flared up last week.

Opponents of the Kansas jurist in the United States Senate have said nothing about his shortcomings in knowledge of the law or his lack of familiarity with Federal procedure. They are basing their objections upon his affiliations with the Anti-Saloon League.

This is as it should be, we believe. There is a chance for an ignorant man to make good on the Federal bench. He could learn with a few years' experience. But if he is a hobbyist, if he is overbalanced on any one subject that is apt to be the basis of litigation coming before him, if he has a grouch against any one class of citizens, be they good, bad, or indifferent, he is unfit, in our humble opinion, to be intrusted with the autocratic powers that attend a Federal judgeship.

And we would feel the same way about the candidate had he put in the major portion of his life fighting the battles of a prosaloon league—if he had reached the point where he had had an ungovernable bias against persons who thought the traffic in liquor was a bad thing. If he had tampered with that subject until he considered it the dominant issue in the lives of others, with one group to be favored and the other terrorized, we would be against him still, and we would give words of encouragement to everyone who opposed a further extension of his powers.

As soon as President Hoover certified the name of Justice Hopkins to the Senate the wolves began to gnash their fangs and disport gleefully around the camp fires where the people have taken lodgment. They were getting ready for the kill.

Governor Reed and Attorney General Smith gave out interviews. With Judge Hopkins on the Federal bench they would show somebody something, they would. They would start a reign of terror of their own, in the hope, of course, that a certain Governor Reed might create a sensation that would land him within squirming distance of the White House.

The attorney general declared he would file a multiplicity of charges against all persons convicted on booze charges in the State courts and turn them over to the Federal court of Judge Hopkins for further ducking. He even outlined the charges, showing how an offender might be prosecuted on six or eight counts in each case. Business would pick up with Justice Hopkins on the Federal district bench.

Not a word was said, nor has a word since been said, about the enforcement of the countless other laws on the statute books. The harping has been about what is contained in a quarter of a page of the voluminous Federal statutes to the exclusion of all things else.

That is not the right attitude. Prohibition is not an issue in Kansas. We have had it for 50 years—longer than most of the other States. Our people are safe as we are going at the present time. We do not need a one-track judicial mind either to protect or to persecute them. Other matters of more importance are being neglected. Let us lay aside the pretty bubbles designed to catch the eyes of the hero worshipers in the galleries. Let us have a man who is broad enough to handle every matter brought to his attention without bias, without fear, without hope of reward. Surely there must be such a man in this great State. Let us have him. And until he is found we hope the objectors in the Senate will stand firm. Thus they may win the lasting gratitude of Kansans.

Mr. CAPPER. Mr. President, the Senator from Maryland [Mr. TYDINGS] has devoted considerable time to the subject of certain fees collected by a special assistant attorney general in connection with the enforcement of the prohibitory law.

No one in Kansas, so far as I have ever been able to learn, will for a moment state that Mr. Hopkins, while attorney general, appropriated or received a dollar of these fees. No one, in all his long record in public life, has ever questioned the integrity, the high character, and the honesty of Justice Hopkins.

Let me read this recent affidavit from Justice Hopkins himself as to this matter of fees. He says:

Richard J. Hopkins, being duly sworn, says that during such time as attorney general he did not receive or accept any fees or any money whatsoever for any prosecution under any of the laws of the State of Kansas; that the only remuneration received by affiant for services performed for the State during such time was the actual salary provided by law for the attorney general.

Mr. President, the Senator has brought to the attention of the Senate a statement from a man named Howe of certain fees collected in liquor cases in Wyandotte County, seeming to show a discrepancy between the amount of the fees collected and the amount turned into the treasury. The figures are incorrect and misleading. It is another example of the old saying that "figures won't lie, but liars will figure." I think the man who got up this statement of fees out there in Kansas deliberately misrepresented the facts.

At my request, this matter has been thoroughly investigated. I wish to read this telegram from the county counselor of Wyandotte County, who is fully acquainted with the situation in that county as to the enforcement of the prohibitory law all through Attorney General Hopkins's term. He sends me this:

Have sent corrected certificates of clerks of respective courts here, showing dates when Hubbard, special assistant appointed by Hopkins, collected fee in each case. These certificates show that the former certificate of deputy clerk—

On which the Howe charges are based that there is a discrepancy between the amount of fees collected and the amount turned into the treasury—

was misleading, because the dates of collection of fees by Hubbard are not given. New certificates of clerks of courts here show that over $4,000 of Hubbard fees in cases listed in former deputy clerk's certificate were not collected by Hubbard during Hopkins's administration; and these, of course, were not included in the report of the Topeka accountant, because this accountant's report covered only fees paid into the State treasury during Hopkins's term. Deputy clerk's certificate dated September 14 used in the Howe complaint—

That is the complaint which the Senator from Maryland has called to our attention—

stated that the fees from cases there listed total $13,518, and were collected by Hubbard between January 1, 1919—

That is the date when Hopkins became attorney general of Kansas—

and January 1, 1923—

Which is the date when Hopkins's term as attorney general expired.

This is erroneous in three particulars. It included 26 cases of total fees, approximately fifteen hundred and odd dollars, all of which were collected during Brewster's term—

Brewster was Hopkins's predecessor—

during Brewster's term previous to Hopkins. It included 47 cases where fees to a total of $2,400 were collected in 1923 after Hopkins's term, and which were sent to State treasury by Hubbard in 1923, after Hopkins left the office, according to vouchers shown me, and which were mailed you with Hubbard affidavit.

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

The PRESIDING OFFICER. Does the Senator from Kansas yield to the Senator from Maryland?

Mr. CAPPER. I do.

Mr. TYDINGS. I should like to say to the Senator that the statement of fees which I put into the RECORD was made by public accountants of Topeka, Kans., taken from the court records themselves, with the dates of payments shown, showing payments to the attorney general's office, according to the certified account which I received, before Attorney General Hopkins had surrendered the office.

Mr. CAPPER. If the Senator will only permit me to finish my statement, I think I will clear that matter up completely and convince him that every dollar of fees during the Hopkins administration was accounted for. The telegram continues:

It included five cases fees, total $225, which were collected by Hubbard 1926 and 1927. Total of these three erroneous matters is $4,125 fees collected by Hubbard entirely outside of Hopkins's term. The fact that this amount of fees was collected outside of Hopkins's term is shown by certificates of clerk of courts here personally mailed you last night—

I have the certificates here and will present them in a moment.

Wherein dates of collection were set opposite number and title of case. I have carefully examined Hubbard's record of Hopkins's cases and certify that they were accurately kept and that by comparison with the certificates of the two clerks of the courts here find them identical as to number and title of case and date and amount of fees collected.

LOUIS R. GATES,
County Counselor.

Mr. TYDINGS. Mr. President, will the Senator yield right there? I will not interrupt him frequently, but as long as he is on that point I would like to interrupt him just a moment.

Mr. CAPPER. I yield.

Mr. TYDINGS. The Senator will recall that I read two statutes of the State of Kansas which required the attorney general to keep records of fees collected, and following that I read the report of the auditor who came there in 1920 and criticized the lack of these records, called it to the attention of the governor, and sent the attorney general a copy; in 1922 another auditor came and found things exactly as they had been found in 1920. I not only read those statements of the auditors, but I was fortunate enough to have them in affidavit form, and they are in the RECORD.

Mr. CAPPER. I will cover that very point, also, if the Senator will just give me a moment's time to complete my statement.

Mr. President, I have here a telegram from Walter F. Mathis, clerk of the district court of Wyandotte County, Kans., in which he says:

My deputy clerk's certificate dated September 14 gave correct number and title of cases and amount of fees collected from such cases by Hubbard, but did not give individual dates of collection of individual fees and therefore was misleading. Saturday I checked all cases on my deputy's former list—

That is the list to which the Senator from Maryland has called the attention of the Senate—

and I have certified to the correctness of the dates of collection shown on my certificate mailed from Kansas City last night and my certificate shows from such dates that a number of fees were collected by Hubbard both before January 1, 1919, and after January 1, 1923.

That is signed by Walter F. Mathis, clerk of the district court of Wyandotte County, Kans.

Now there were two courts in which fees were collected in these liquor cases in Wyandotte County. The other was the city court of Kansas City, and here is a certificate from Kansas City, Kans., dated December 16, signed by Roy D. Angle, clerk

of the city court, showing that the Howe report referred to by the Senator from Maryland is incorrect:

KANSAS CITY, KANS., *December 16, 1929.*

Senator ARTHUR CAPPER,
Washington, D. C.:

First 23 listed cases city court Kansas City, first district, total Hubbard fees $1,000 were collected prior to Hopkins administration and the specific dates of collection are correctly shown by my certificate dated December 14, and the former deputy district clerk's certificate, dated September 14, is erroneous in stating that such fees were collected by Hubbard between January 1, 1919, and January 1, 1923.

ROY D. ANGLE,
Clerk of the City Court.

Mr. President, the clerk of the court sends me this detailed report, the preparation of which was a matter of several days' work, which he certifies as being correct, in which the cases are set down in the order in which they appear in the statement called to our attention by the Senator from Maryland. There are indicated here four cases in which fees were collected, giving the dates—May 27, 1918, April 4, 1920, June 1, 1918, and January 11, 1919—all of which, of course, were prior to Hopkins's administration, but which are charged to Hopkins in the statement which has been called to our attention by the Senator from Maryland.

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

Mr. CAPPER. I yield.

Mr. BLAINE. It appears from the statement and the records produced by the Senator from Maryland, and from the statement now made by the Senator from Kansas, that there is a question here involved as to whether or not Mr. Hopkins, while he was attorney general, was not in fact an embezzler. I can not see any other question but that question, in view of the facts stated by the Senator from Maryland and in view of the facts stated by the Senator from Kansas.

Let me suggest this to the Senator, since that question arises, is not the proper procedure now to rerefer this nomination to the committee, and let us investigate whether or not the attorney general accounted for the fees turned over to him, for which he should have accounted while he was attorney general. If he did not, he is an embezzler. If he did, he ought to be relieved of that charge. I can not understand how the Senate can pass upon that matter on the testimony of the Senator from Kansas, who clearly can not know anything about it, as the information is only passed on to him as a sort of hearsay, or at least not in evidentiary form.

I understand there are 105 counties in Kansas, and in order to determine whether or not this nominee, while he was attorney general, turned all the fees over to the State treasury, it would be necessary to have an audit in those counties. I understand that the charge is seriously made that he did not turn over all the fees. Whether it is true or not, I do not know; but I think we are entitled to know about it. I therefore suggest to the Senator whether it is not the better procedure in this matter to rerefer the case to the Judiciary Committee.

I will not call the Senator's attention in detail to the three other charges, but I will call his attention to the fact that there are three other charges, only one of which can be answered on the floor of the Senate, namely, the one referring to a constitutional question. The other two charges are substantial. There has been no testimony taken by the subcommittee of the Judiciary Committee, and no testimony taken by the Judiciary Committee, upon the question the Senator is now discussing, or upon the other three questions which I intend to debate in this matter. So I seriously suggest to the Senator from Kansas whether it is not more desirable to rerefer this matter to the committee, in order that there may be a full investigation of these several charges.

Mr. CAPPER. Mr. President, let me say to the Senator from Wisconsin that I have an affidavit here from every official who has had anything to do with the fees in question.

Mr. BLAINE. If I understood the Senator from Maryland, the showing is that there are 105 counties in the State of Kansas.

Mr. CAPPER. There are 105 counties in the State of Kansas, but I do not understand that the Senator from Maryland even intimated that there is a similar situation in the other 103 counties. There are only two counties in which special assistant attorneys general were appointed by the attorney general, and so far as I know the only question raised by anybody as to fees is with respect to those two counties.

Mr. BLAINE. That is not my understanding. The Senator from Maryland is present, and if the Senator will yield, I know he will state just what the allegations are with respect to this matter.

Mr. TYDINGS. In reference to the auditors' report?

Mr. BLAINE. In reference to the 105 counties and the fees that were collected, and in what counties there has been some official or semiofficial investigation to determine what the fees are.

Mr. TYDINGS. In Wyandotte and Leavenworth Counties, in the State of Kansas, the amount of fees collected was $3,000 in excess of the fees reported for the whole State, consisting of 105 counties. In other words, in two counties, the court records show, more fees were collected than were turned in from 105 counties in the State. To put it in simpler form, in two counties in the State of Kansas, the court records show, three thousand more dollars were collected than were turned in for every county in the State of Kansas, all combined.

Mr. BLAINE. So that there is no record as to 103 counties?

Mr. TYDINGS. There may be an explanation of this, if the Senator will yield, but the certified public accountant's statement and the records of the State of Kansas do not furnish that explanation, and on the bare facts the case is as I represented it.

Mr. CAPPER. Mr. President, the record shows that there are only two counties involved in this controversy. I do not believe the Senator from Wisconsin appreciates this fact, that none of the fees in question go to the State or county, that under the law the fees are payable to the special assistant attorneys general, and he receives no other compensation, that there is no incentive for any juggling of fees, because every dollar that is collected in the form of fee is, by law, appropriated to the attorney general as his compensation in these liquor cases.

Mr. BLACK. Mr. President, has anybody ever preferred any charges before a grand jury, or anything of that kind, against this gentleman?

Mr. CAPPER. Not at all; and it is only within the last few months, since Judge Hopkins has been mentioned as a candidate for United States district judge, that this matter of fees has been raised. The matter under discussion occurred years ago, and since all this happened Mr. Hopkins has been elected to the supreme court a second time, by the largest majority ever given a judge, carrying every county in the State but one, which shows how the people of Kansas regard the man who is now nominated for Federal judge.

Mr. BLACK. Of course, it goes without saying, and I think the Senator will agree with me, that on a matter as plain on its face as this appears to be, where it looks as if the public records show that somebody stole three or four thousand dollars, no man in public office could have gotten by with it three or four years without being indicted and prosecuted, unless there was a satisfactory explanation.

Mr. BLAINE. I understand the Senator from Kansas to say that this money does not actually go into the State treasury, but that it goes somewhere else, that it goes as fees to certain public officials. I assumed it went into the State treasury. But that would be wholly immaterial, if the Senator states, and no doubt correctly, that it is made up of fees that belong to certain public officials, prosecutors in the nature of prosecuting attorneys, that the fees belong to them. I have not examined into that question at all, but it does appear that there is a great dispute here as to what the facts are, and I suppose that the statute of limitations has run against any prosecution. I assume that the people interested in that matter would be the only ones who would initiate a prosecution. I do not know. I am not discussing that at all.

Mr. ALLEN. Mr. President, will my colleague yield?

The PRESIDING OFFICER. Does the Senator from Kansas yield to his colleague?

Mr. CAPPER. I yield.

Mr. ALLEN. May I inform the Senator from Wisconsin upon one fact, that four years ago, at a time when Mr. Howe was first beginning his attack upon Justice Hopkins, he raised this very question, and at that time it was proven conclusively that if anybody was robbed in the retention of $3,000 of fees it was the people whose duty it had been to report the fees. These fees do not belong to the State. The fees do not belong to the attorney general himself. The fees were established by law as an incentive for the assistant attorneys general to prosecute liquor cases. Eventually, upon the complaint of the wets that they did not know what was going on in the prosecution world, it was provided that the fees should be covered into the treasury and immediately repaid to the assistant attorneys general to whom they belonged. So the matter has been before Kansas once before.

Mr. BLAINE. The Senator has not stated in what form it has been before Kansas. He said there was an investigation.

Mr. ALLEN. There was a complaint voiced by Howe.

Mr. BLAINE. Who passed upon that complaint?

Mr. ALLEN. The complaint was never taken up. It was discussed in the newspapers. It was found in the attorney general's office that there was no cause for the opening of the case because it was patent upon the face of it that no embezzlement had occurred.

Mr. BLAINE. Who found there was no cause?

Mr. ALLEN. The attorney general's office.

Mr. BLAINE. This is far afield from my suggestion. My suggestion is that the matter be referred to the committee. Then we will ascertain the facts in reference to the charge. I am not making the charges. I have not even investigated the alleged facts. I have not gone into the facts. I am just calling attention to the fact that there are some charges. Evidently somebody believes they are true. I know there are other charges, and they no doubt are believed to be true. Therefore I was simply suggesting to the Senator from Kansas, without intending to argue the merits of the charges, that the case be rereferred to the committee.

Mr. ALLEN. I would not agree to that suggestion. There is no ground here for suspicion of anybody. The facts are as my colleague's material expose them to be. This man Howe, who has brought to the Senator from Wisconsin and to the Senator from Maryland these pretended facts, has been a bitter antagonist of Justice Hopkins ever since the days of the general coal strike, in which Howe resented the action of the attorney general, then Mr. Hopkins, in enforcing the State law. He has bruited these charges about the State in every campaign that has followed. Since that time Justice Hopkins has stood once in the primary for the attorney generalship and won, and in the succeeding election he won again. Then he stood in the primary for a place upon the supreme bench, succeeding Silas Porter, who had been on the court for 20 years. Again came Howe with this mess of pretended facts, and Hopkins was successful in both the primary and the general election. Then two years ago again he came before the people. All of this material had been before them. It had been in the Topeka newspaper which the Senator from Maryland has discussed. These have been the well-known enmities producing the well-known echoes of opposition to Justice Hopkins. This is not new material, and in Kansas it has never been regarded as being of enough importance to call for serious consideration.

Mr. BLAINE. Mr. President, if the Senator will yield further——

Mr. ALLEN. I yield.

Mr. BLAINE. I want to say to the junior Senator from Kansas that these charges are now made, and they have not been considered by the Judiciary Committee nor by a subcommittee thereof. I can not understand how we can try this case on the floor of the Senate. I do not want to dispute the testimony of the senior Senator from Kansas. I do not want to dispute the testimony of the Senator from Maryland. On every one of those charges there is going to be a conflict as to what are the facts. I think it is a very undesirable method of trying out the qualifications of a nominee for the Federal bench. I am simply suggesting to the Senator that the matter be rereferred, and the junior Senator from Kansas objects, and therefore it becomes wholly unimportant to carry the suggestion further. But permit me to suggest that I am going to make a motion that the nomination be rereferred to the committee. I shall make that motion some time during the debate.

Mr. CAPPER. Mr. President, I am not asking the Senator from Wisconsin or anyone else to take my word as to the facts in the Hopkins case. I am submitting documentary evidence, affidavits and telegrams signed officially by the men who have had something to do with the question of fees. For instance, I have just submitted here an affidavit from the clerk of the court of Kansas City, Kans., in which he says that the report originally made by one of his deputies, and which is the report upon which the Senator from Maryland has based his charges, is erroneous, misleading in many respects, and does not do justice to the special assistant attorney general who collected the fees in Wyandotte County.

The fees as soon as collected by the special assistant attorney general are under the law forwarded with a report to the attorney general at Topeka, and he under the law turns them over to the State treasury. I submit an affidavit from Ray Kimball, of the attorney general's office at Topeka, who says under oath:

That he has been employed in the office of the attorney general of Kansas since about June, 1921. That since about January 1, 1923, he has held the position of office assistant and chief clerk. That he has drawn a statement from the records in the office of the attorney general.

The Senator from Maryland has attempted to make the point that there are no records in the attorney general's office in Topeka in these cases. This is an affidavit from the man who was assistant to the attorney general of the State at that time and is assistant attorney general of the State now. He says the records are kept all right and that they account for every dollar remitted to the attorney general's office during the Hopkins administration.

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

Mr. CAPPER. Certainly.

Mr. TYDINGS. I did not say there were no records in the attorney general's office. What I read was the report of the two auditors, who said there were no records in the attorney general's office.

Mr. CAPPER. Those reports were misleading, in that they did not show the dates these fees were turned in to the treasury.

Mr. TYDINGS. They are the reports of the auditors of the Senator's own State, who made an examination in 1920 and again in 1922, and they said there were no records in the office, although the law requires such records to be kept. What I did was only to quote the affidavit of the auditor who examined the attorney general's office. If he is wrong, I beg the Senator to blame him and not me, because it was the best information I could get on the matter.

Mr. CAPPER. That was some six or eight years ago. The assistant attorney general has said in his affidavit:

That he has drawn a statement from the records in the office of the attorney general, showing deposits by Roy R. Hubbard, special assistant attorney general, into the State treasury as follows.

Then he gives the dates and the amounts. There are some 35 or 40 items, showing a total of $12,580.25, which tallies with the total amount claimed in the report of the accountant to which the Senator from Maryland has called attention. Kimball goes on to say in his affidavit:

The said Ray Kimball hereby testifies that he has compared the above items with the records of the State treasurer and that the amounts set out are true and correct according to the records of the attorney general of Kansas and the State treasurer of Kansas.

Then I have a telegram from Tom B. Boyd, State treasurer of Kansas, dated December 15, in which he said:

Ray Kimball, chief clerk attorney general's department, certifies his records show Roy Hubbard deposited $2,400 during year 1923. Records my office correspondingly show these amounts were deposited by that department.

Mr. TYDINGS. I want to be fair to Judge Hopkins. I did not say that the judge had put this money in his pocket. What I attempted to show was that the law required him to make monthly reports and that in 1920 the auditor came and found that Attorney General Hopkins had not complied with the law in the keeping of records. Then the attorney general took no notice of it and in 1922 another auditor came and found the same chaotic condition in the attorney general's office. That in itself seemed to show he had not much regard for the proper handling of public money.

Mr. CAPPER. I stress the point that the affidavits and telegrams just submitted by me show that the records of the courts in Wyandotte County, the records of the attorney general at Topeka, and the records of the State treasurer all agree and prove beyond any question that there is no discrepancy of any nature.

Mr. TYDINGS. Why did not Attorney General Hopkins comply with the statutes then?

Mr. CAPPER. Attorney General Hopkins was complying with the statute as he interpreted it. I have here a statement from him covering that matter. Let me read Mr. Hopkins's statement:

Under the provisions of this statute—

Which is the statute the Senator from Maryland has quoted as being the basis of the accountant's complaint—

Under the provisions of this statute, J. N. Atkinson, accountant, suggested that the attorney general's office should keep a docket, for instance, of cases prosecuted in Wyandotte and Leavenworth Counties. The suggestion was entirely impracticable and not within the contemplation of the statute. It would have required the services of another assistant, for which the legislature had made no provision, because each special assistant appointed for the purpose of prosecuting the prohibitory liquor law in this county was required to keep his own records in his county. The special assistant himself could not have afforded to have secured and brought such data to the office of the attorney general for the keeping of such a docket and the enforcement of the prohibitory liquor law, which was the object in view, would have been necessarily impaired to that extent. I have been advised and always understood that Mr. Hubbard kept a most complete record of his cases in his own

office. No such docket as requested by Mr. Atkinson was turned over to me by Attorney General Brewster and I have never understood that any such was kept.

Mr. President, the special assistant prosecutor in Wyandotte County, Mr. Hubbard, sends me the original vouchers for every dollar that was returned to him from the State treasurer. The vouchers tally absolutely with the total amount which the accountants have claimed and have set forth in the report on which the Senator from Maryland bases his charges.

There is no lack of documentary proof here that there has not been a dollar misappropriated of the fees; furthermore, there could be no inducement of any kind for anybody to misappropriate the money, because the State treasury has no claim to the fees. They are specially appropriated by law to the special assistant attorneys general who conduct these cases and they have gone through the regular channel. I have produced the affidavits to show that every dollar went through the usual channels to the attorney general in Topeka, then into the State treasury, and out of the State treasury back to the special assistant attorneys general who prosecuted the cases and collected the fees. I have presented the affidavit of Attorney General Hopkins that at no time did he receive fees of any kind during the four years he was attorney general.

Mr. FLETCHER. Mr. President, may I ask the Senator from Kansas a question?

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

Mr. CAPPER. I yield.

Mr. FLETCHER. I inquire of the Senator—I see no report of the committee here—how the committee stood on this nomination? Did it submit a unanimous report or was there some difference of opinion about it?

Mr. CAPPER. I am not informed as to that. There may have been two or three members of the committee opposed to the nomination, but I think no minority report of any kind has been submitted.

Mr. FLETCHER. So the nomination merely comes with a favorable report.

Mr. TYDINGS. Mr. President, will the Senator from Kansas yield to me to answer the question of the Senator from Florida?

Mr. CAPPER. I yield.

Mr. TYDINGS. The committee held no hearings on the nomination of Judge Hopkins. It did receive a few letters of commendation, and I think a few in opposition to him, but there was no hearing into any of the facts or in relation to the charges. The nomination was reported, I think, without any comment at all by any member of the committee.

Mr. CAPPER. The Senator from Maryland is correct.

Mr. BLAINE. Mr. President, if the Senator from Kansas will yield to me, I should like to say that I was present on the occasion when the nomination of Mr. Hopkins was ordered to be reported from the committee. There was very strenuous objection to reporting it favorably by more than one Senator, and had we been in possession of the information and the facts which have been brought to our attention since the committee reported, I am quite convinced that a considerable number of the members of the Judiciary Committee would have opposed the confirmation of Mr. Hopkins.

But the trouble is there was a great hurry; the question was hardly considered by the committee. There was a suggestion made with respect to a constitutional question, but the committee was in a very great hurry to adjourn, and necessarily so. We did not have the time in which to obtain a copy of the Kansas State constitution until the nomination was reported rather informally, though against the objection of many members of the committee.

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

Mr. BLAINE. I yield.

Mr. TYDINGS. Is it not a fact that the committee really conducted no investigation into the fitness of Judge Hopkins; that the record largely consisted of affidavits and letters of commendation and, perhaps, some in opposition which came from various members of the bar of the State of Kansas, as well as from private citizens, but that no hearing was had on any of the charges which have been spoken about to-day except as to the constitutional provision.

Mr. BLAINE. I will answer the Senator definitely later on.

Mr. ALLEN. Mr. President——

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

Mr. BLAINE. I yield.

Mr. ALLEN. The Senator from Maryland knew early in the consideration of the question that he was going to oppose the nomination of Justice Hopkins, because, as I recall, we had a conversation about it.

Mr. TYDINGS. That is right.

Mr. ALLEN. The Senator knew it at that time. He also knew that Mr. Howe had sent in certain communications. Nothing has come in since that time except an extension of the same character of communications.

Mr. TYDINGS. The Senator is supposing a situation which does not exist. As a matter of fact, I did not pay any attention to any charges until they were substantiated by affidavits; and, as an additional matter of fact, I received not a single affidavit until last Saturday morning.

Mr. ALLEN. But from the time the case opened the Senator knew that he was going to oppose it.

Mr. TYDINGS. No; I did not. As a matter of fact, if the Senator will recall, I told him first that I was not going to oppose Judge Hopkins.

Mr. ALLEN. The Senator told me that he was not going to openly address the Senate in opposition to him.

Mr. TYDINGS. That is right. But when these reports came to me from various citizens of Kansas, I then went to the Senator and told him I thought I would oppose the nomination of Judge Hopkins because since I had first talked to him additional information had come into my possession. However, I did not put any ex parte charges in the committee's possession, because I thought that would be unfair to Judge Hopkins, and in each instance where charges were made I either telegraphed or wrote requesting that the report be substantiated by public records and by affidavits of interested parties.

Mr. ALLEN. As material in connection with this case arrived at my office, I will say to the Senate, I sent it to the chairman of the Committee on the Judiciary, including everything that Mr. Howe sent—and Mr. Howe is the "various citizens" to whom the Senator referred. As Mr. Howe sent a batch of material here, I transferred it to the chairman of the committee.

Mr. TYDINGS. I merely wish to put before the Senate the fact that the committee had reported Judge Hopkins's nomination before I received one single affidavit or any substantiation of the charges against him, and therefore I had no opportunity to present the case to the committee, although I went to the chairman of the subcommittee and told him that since he had reported the nomination I had received additional information.

Mr. ALLEN. And subsequent to its reception the committee had a session upon the case.

Mr. TYDINGS. No; they never considered the information I had at all.

Mr. CAPPER. Is it not a fact that the nomination was before the Committee on the Judiciary practically for four months and that the committee had ample opportunity to inquire into any question which might be raised as to the eligibility and qualifications of Judge Hopkins?

Mr. TYDINGS. If the Senator is addressing the question to me, I can not answer it, but all I can say is that, so far as I am concerned, I had no knowledge about any contest being made against him until, perhaps, a month ago, at which time a few protests began to come into my office. When I took up the protests I ask that they be substantiated with court records, certified accounts, and affidavits before I would make any charges against the nominee.

Mr. CAPPER. Certainly no one has attempted to rush this nomination through, because it has been before the committee for something like four months, I think, and we in Kansas have waited patiently. There is a vacancy in this judgeship, yet we have been willing that the committee and the Senate should have all the time they desired to obtain all the facts as to the qualifications and eligibility of this nominee.

Mr. BLAINE. Mr. President——

The VICE PRESIDENT. The Senator from Wisconsin.

Mr. BLAINE. Mr. President, I did not mean to take the Senator off the floor. I merely intended to answer a question which had been asked by the Senator from Maryland [Mr. TYDINGS].

The Judiciary Committee appointed a subcommittee on this nomination, and that subcommittee evidently got into communication with the nominee or with some one, who, in turn, got into communication with the nominee. I was not a member of the subcommittee, and, therefore, can not state how the nominee was consulted, but, anyway, he must have been consulted, because the subcommittee received affidavits from the nominee respecting the amount of money that he had received from the Anti-Saloon League.

Beyond that one question, there was no investigation made by the Judiciary Committee, and, so far as I know, there was no investigation made by the subcommittee of the Judiciary Committee. Those who were interested in having the nomination reported out, of course, were pressing it before the committee, and the nomination was rather hastily reported out. That statement is made without implying any criticism whatever.

Everybody knows the circumstances that prevailed just prior to the recess the Senate took late in November.

However, the charges that have been debated here, and other charges, in my opinion, of a more serious character that will be debated, ought to be investigated by the committee, and a report should be made as to the facts. We are in a controversy here respecting the facts. I could vote for the confirmation of this nominee if the facts should disprove the charges which have been made, but we have no facts before us. We have the testimony of individual Senators, and affidavits and telegrams outside the record have been brought in here, and in considering the charges which have been filed, of course, letters have been received from which some Senators will read; but the Judiciary Committee has made no investigation of any of these charges excepting the charge concerning the receipt of money from the Anti-Saloon League by the nominee. That is the only charge which has been investigated.

The charge that he had violated his oath, that he had violated the constitution of the State of Kansas was not considered. We entered upon the consideration of that question, but the committee, in an informal way, reported out the nomination even before the committee had time to procure a copy of the constitution of Kansas.

So the matter was rather jammed through. I do not charge anyone with having jammed it through, but it resulted from circumstances that developed by reason of the situation. The Senate is not going to be informed upon this nomination because it is not going to receive the facts in an evidentiary way.

Therefore, Mr. President, I shall move that the nomination of Mr. Hopkins be recommitted to the Committee on the Judiciary. I make that motion at this time, and I suggest the absence of a quorum. I shall then desire, upon receiving recognition from the Chair, to discuss why this nomination should be recommitted to the committee.

The VICE PRESIDENT. The clerk will call the roll.

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

Allen	Gillett	McCulloch	Smith
Ashurst	Glass	McKellar	Smoot
Baird	Glenn	McMaster	Steck
Barkley	Goldsborough	McNary	Steiwer
Bingham	Gould	Metcalf	Stephens
Black	Greene	Moses	Sullivan
Blaine	Grundy	Norbeck	Swanson
Blease	Hale	Norris	Thomas, Idaho
Borah	Harris	Nye	Thomas, Okla.
Brock	Harrison	Oddie	Trammell
Brookhart	Hastings	Patterson	Tydings
Broussard	Hatfield	Phipps	Vendenberg
Capper	Hawes	Pine	Wagner
Caraway	Hayden	Pittman	Walcott
Copeland	Hebert	Ransdell	Walsh, Mass.
Couzens	Heflin	Reed	Wash, Mont.
Dale	Howell	Robinson, Ind.	Waterman
Dill	Jones	Sackett	Watson
Fess	Kean	Schall	Wheeler
Fletcher	Kendrick	Sheppard	
Frazier	Keyes	Shortridge	
George	La Follette	Simmons	

The VICE PRESIDENT. Eighty-five Senators have answered to their names. A quorum is present. The Senator from Wisconsin [Mr. BLAINE] is entitled to the floor.

Mr. BLAINE. Mr. President, very few of the Members of the Senate were present before the quorum call when I moved that the nomination of Mr. Hopkins be rereferred to the Committee on the Judiciary; and I am going now to discuss the reasons therefor.

Mr. President, in my opinion this nomination involves one of the most important questions ever raised upon the floor of the Senate. The question is whether or not the President and the Senate are going to promote the violation of the constitution of the State of Kansas.

Article 3 of section 13 of the constitution of Kansas provides:

> The justices of the supreme court and judges of the district court shall, at stated times, receive for their services such compensation as may be provided by law, which shall not be increased during their respective terms of office: *Provided*, Such compensation shall not be less than $1,500 to each justice or judge, each year, and such justices or judges shall receive no fees or perquisites nor—

And this is the important provision of the constitution—

> nor hold any other office of profit or trust under the authority of the State or the United States during the term of office for which such justices and judges shall be elected—

And then continuing:

> nor practice law in any of the courts in the State during their continuance in office.

There is a constitutional inhibition, a constitutional prohibition against a judge in Kansas holding any office of profit or trust under the authority of the State or the United States.

Mr. NORRIS. Mr. President——

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

Mr. BLAINE. I yield.

Mr. NORRIS. I should like to suggest to the Senator from Wisconsin that on the ground the Senator has just mentioned there would be no occasion to send the nomination back to the committee.

Mr. BLAINE. No.

Mr. NORRIS. There would be no controversy about the facts. The Senator has raised only a question of law for the Senate to pass on. To meet that question, it is not necessary to send this nomination back to the committee. There may be other reasons for doing it; but certainly that can not be urged as one.

Mr. BLAINE. Let me suggest that the Senator was absent when I referred to the other reasons. In my opinion, this objection ought to be very carefully considered by the Judiciary Committee, because it is the first time in the history of our country, so far as I can ascertain, that this question was ever raised. As the senior Senator from Kansas [Mr. CAPPER] has already stated, I know that two State judges have been appointed to the position of Federal judge during the term of their office as State judges; but I do not understand that this question was raised at that time. I do not understand that it was debated at that time or considered at that time. At least, I can find nothing in the record to that effect.

Mr. CAPPER. Mr. President, I do not think the question was raised at that time; but the question was raised in the House of Representatives about 25 years ago when Judge Samuel R. Peters, a district judge of the State of Kansas, was elected a Member of the House of Representatives. The Judiciary Committee then went into the matter very thoroughly, and it was debated at some length, not only in the committee but on the floor of the House; and the House was strongly of opinion that there was no sound reason why a Kansas district judge should not be elected to the House of Representatives.

Mr. WALSH of Montana. Mr. President——

Mr. BLAINE. Mr. President, that is an entirely different proposition, and the difference is here: In this case a violation of the Kansas constitution is proposed by the Federal Government through the President and the Senate, if the Senate confirms. In the case to which the Senator from Kansas refers, the proposal to violate the constitution of the State of Kansas came from the State itself, and by the electors thereof. It is an entirely different proposition.

Mr. WALSH of Montana. Mr. President, will the Senator yield?

Mr. BLAINE. I yield.

Mr. WALSH of Montana. The Senator from Kansas might have cited, in this body at least, a case very much more directly in point. The same question that was thus debated in the House of Representatives was the subject of very earnest and careful consideration in this body in the case of the election of Lyman Trumbull, of the State of Illinois, as a Member of this body. He was at the time associate justice of the Supreme Court of the State of Illinois. It was very properly held by this body that the State of Illinois nor any other State can prescribe qualifications for Members of this body, or for any officer of the United States. So that there was no constitutional objection to the seating of Mr. Trumbull as a Member of this body.

That is not the question presented here at all. Nobody claims that this would be an ineligible appointment. The simple question is whether, when a man accepts an election from the people of the State of Kansas, who have solemnly declared in their constitution that no man who is elected a judge in that State shall accept an office under the United States, it is quite in keeping with the proprieties of the situation for him to accept such an appointment. The Supreme Court of the State of Kansas has spoken upon this matter in very emphatic language.

Mr. BLAINE. Mr. President, the Senator from Montana is quite right. The case of Senator Trumbull, of course, was a case in point, in which it was the State of Illinois that proposed a violation of the law or the constitution.

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

Mr. BLAINE. I yield.

Mr. NORRIS. I am unable to see any distinction between one of the Members of the House of Representatives now sitting at the other end of this Capitol, elected by the people, who had been a judge, and who is over there now, and the present case. The House passed on it years ago, and it would pass on it again, I suppose, in the same way. But the Senator from Wisconsin says that that is an entirely different case, that the people of the State of Kansas have violated their constitutional provision. As far as I am able to see, I do not see why, putting it in the broad language the Senator uses, though I would not

put it that way. If the State of Kansas wants to violate its constitution, with much better grace could the Federal Government violate it, because the Federal Government had nothing to do with the drafting of it or the making of it, and the President and the Senate had nothing to do with the making of the constitution of the State of Kansas. While I think they are on all fours, if there could be a distinction drawn, it seems to me it would be to the effect that if Kansas disregards her constitution certainly we can.

Mr. BLAINE. Mr. President, that is treating the constitution of Kansas very lightly. If one man has a right to violate the constitution or the right to violate the law, then, by the same token, everybody else has the right to violate the constitution or the law, whichever the case may be. But in this case the sovereign State of Kansas has spoken, and it has declared what its public policy should be.

When the people of the State of Kansas deliberately overturn or disregard or flout their own constitution, it is not for Congress to offer any criticism. I am not saying that the people of Kansas had the moral right, in the case to which the Senator from Nebraska refers, to violate the constitution, but they chose to disregard the constitution. In this case the United States of America, through the President, and, if the nominee is confirmed, through the Senate, proposes to flout the constitution of the State of Kansas, which is an entirely different proposition. The fact that the people of Kansas may have violated the constitution, may have disregarded it, if the Senator wants to put it that way, is no justification for violation at our hands.

Mr. CAPPER. Mr. President, in what respect does this appointment differ from the appointment of David J. Brewer from the State of Kansas to the Supreme Court of the United States while he was occupying a judicial position in the State?

Mr. BLAINE. There is no difference, let me say to the Senator, except in this, that now for the first time in the history of our country this question is raised. Why is it raised? The administrators of government should be put to the test as to their allegiance to the Constitution and the laws. If we are to uphold the constitution of Kansas, the first duty must devolve upon the President of the United States, and the duty must devolve upon the Senate of the United States. If we are to flout the constitution of the State of Kansas, disregard it, violate its plain terms, then how can the ordinary citizen have regard for the Constitution and the laws? It is these very proposals to flout the Constitution when it does not suit one's fancy which to-day are leading our country into widespread disobedience to law.

It is true that no State can determine the qualifications of any Federal officer, there is no doubt about that; but I contend that where a State has a provision in its constitution respecting the qualifications of its own officers we should not join in any movement to induce or permit any officer to violate the constitution of his own State, and to violate his own oath.

Judge Hopkins stands before the Senate asking the Senate to confirm him as a Federal judge, in defiance of his oath to support the constitution of the State of Kansas. He flouts that oath, he violates that oath, he violates the constitution of his own State.

Mr. President, if judges on the supreme bench of a State, hoping to be elevated to positions on the Federal bench, are to have perfect freedom and liberty in disregarding their oaths, what may we expect of other citizens not so elevated in public favor?

This whole proposition goes to the question of whether or not we are going to sustain the constitution of the State of Kansas or are going to join in trampling it underfoot.

This question has been considered by the highest court authority in the State of Kansas.

The case of State ex rel Watson *v.* Cobb (2 Kans. 32) is the only reported case bearing directly on the point under discussion, involving interpretation of Article LII, section 13, of the constitution of Kansas. However, an examination of other State constitutions discloses similar provisions. For example, Article VII, section 16, of the constitution of Indiana provides:

> No person elected to any judicial office shall, during the term for which he shall have been elected, be eligible to any office of trust or profit under the State, other than judicial office.

The courts of Indiana, in interpreting that provision, have repeatedly held that the disqualification for another office during the term elected is one which the person can not remove; "it is a constitutional barrier" which can not be thrown down. And so also have the courts of Washington, Iowa, and California held when interpreting the expression "during the term for which they shall be elected," as found in their constitutions. The decisions are unanimous in the opinion that the disqualification reflects the intention of the framers of the constitutions that "judges ought not to be allowed to be scramblers for political places." Furthermore, that the "judicial officer assents when he comes to the office that for the term prescribed in his certificate of election, he will divorce himself from political activity," and he forfeits the right to accept the expressly forbidden offices during the term for which he shall have been elected." The disqualification can not be removed by resignation or any other act on the part of the holder of the office. "During the term of the judicial office no disturbance of the judge's mind should be caused by political aspirations or contests," to use the language of a distinguished jurist.

The States of Alabama, Arizona, California, Indiana, Michigan, Washington, South Dakota, North Dakota, New Mexico, Wyoming, and Wisconsin all have provisions in their State constitutions disqualifying a judge from holding any other than a judicial office during the term for which he was elected or appointed; that is, any office, State or Federal. The same principle applies if a judge of one of those States were named, for instance, to a Cabinet position under the President. Then, under the constitutions of those 11 States, he would have no moral right to accept the appointment.

There are three States which have the Kansas provision, and those are the State of Kansas, the State of Nevada, and the State of New Jersey. The disqualifications attach in those cases. I am going to read from the Kansas case of State ex rel. Watson against Cobb a few excerpts from the opinion, beginning on page 56. After quoting the constitution of Kansas as I have quoted it, the court said:

> It is clear that it is not the intention of this provision to prescribe rules by which the existence of a vacancy in any of the judicial offices named is to be ascertained. Even after removal from or resignation of office, the justices and judges named are still plainly and unequivocally bound by the constitutional inhibition until the expiration of the term for which they were elected.

That is the declaration of the Supreme Court of the State of Kansas, and it applies to Judge Hopkins, who is now a member of that court. I am not discussing the wisdom of the policy adopted by Kansas or by New Jersey or by Nevada or by the other 11 States to which I have made reference. I am discussing the constitutional inhibition which attaches to the judge or to the man who occupies a judicial position in those States, for it does attach to the individual.

The Kansas court continuing, said:

> The disqualification attaches to the individual and not to the incumbent of the office. The object sought to be accomplished by this provision, is that our high judicial officers may be removed as far as possible from the temptation to use the power and influence of their positions and authority for their own advancement. To prevent their minds from being distracted from their legitimate duty by ambitious hopes and struggles for preferment, to raise them above those political and partisan contests so unbecoming the desired purity, impartiality, and calmness of the judicial character. Its effect is to prevent the acceptance of any other office by a judge or justice the term of whose judicial office has not expired, and to render such acceptance void.

Continuing further, the court said:

> One can not examine these several provisions without perceiving at once that the purpose of the judiciary clause is to prevent a vacancy by the acceptance or holding of any other office during the term for which the incumbent was elected, while the purpose of the provisions for the legislative and executive offices is to create a vacancy in case of their acceptance of certain specified classes of offices. * * *
>
> But if one of the justices of the supreme court should be elected governor for a term, any part of which was included in the term for which he was elected justice, he would be held ineligible to the office of governor, and if he should intrude into the office would be subject to ouster by judicial proceedings.

Now, Kansas can effectually enforce that constitutional provision against Judge Hopkins if he should be elected to another State office within the State of Kansas. By judicial process issued from the Supreme Court of Kansas Judge Hopkins would not be permitted to take another State office, either by appointment or election; and if perchance he took such State office, then the same strong constitutional arm of the very court of which he is a member would oust him from that office.

But now it is proposed to violate this provision of the constitution of the State of Kansas because Kansas can not enforce that provision as to a Federal office. The United States has the exclusive jurisdiction to prescribe the qualifications for holding a Federal office, and no State can change or limit those qualifications. I appreciate that full well. But I contend, Mr. President, that the constitution of the State of Kansas is binding upon Judge Hopkins. It should be binding upon his conscience. He has taken an oath to support that constitution and every article

and section of it. Now he proposes to violate that oath by accepting the appointment made by the President of the United States. I say, Mr. President, that a judge who will violate his own oath, a judge who will violate his own constitution, comes here stamped with a character which unfits him to sit in any judicial office; and the Senate of the United States, in my opinion, ought not to be a party to the violation of the Kansas constitution and the violation of Judge Hopkins's oath.

Just for one moment look at the picture that may be presented before that judge on some occasion. Some man may be arrested charged with the offense of perjury, and he appears for trial before Judge Hopkins, sitting on the United States district bench. Why, the accused would look into the eyes of a judge who had violated his own sacred oath and violated the constitution of his own State. The judge and the accused—one no less guilty than the other—the judge rewarded, the accused imprisoned. Does that picture promote obedience to the constitution?

Mr. President, it seems unthinkable that Judge Hopkins would for one moment entertain a proposition to violate his own oath and the constitution of his own State. When the other judges to whom reference has been made came before the Senate for confirmation we had an entirely different situation. The attention of the Senate was not called to this provision in the Kansas constitution. We did not have then as the Chief Executive of our Nation one who was proclaiming from the house tops a demand for the obedience of citizens to the Constitution. Why, in this age, in this year, with all the fanaticism that is capable of being produced, we have a demand from the White House asking that the laws and the Constitution be upheld and the statement that no man is a good citizen who violates either one of them. And yet that same President is here not only asking that Hopkins violate his oath and his State constitution, but is joining in a political demand that Hopkins must be a Federal judge in Kansas, entirely forgetful of his own high-sounding words which he has uttered on various occasions demanding observance of the Constitution. Judge Hopkins has been engaged in identically the same pursuit. I am going to discuss that matter, but I do not want to get away now from the decision of the Supreme Court of the State of Kansas to which I have just referred.

Continuing, the court said:

> In such a case in proceedings against such person, the showing that he was elected to and was acting in that office would be no defense, because the constitution absolutely prohibits him from holding that office, and the attempted defense would be based upon a palpable violation of a fundamental law of the State.
>
> His title and right to the office of justice would not be directly affected by his acceptance of the office of governor. He would still remain in his judicial office because the acceptance of the other office would be illegal, void, and of no effect.

That is, the acceptance of a State office; but the same moral obligations rest upon Judge Hopkins in this case as they would rest upon him in case he were appointed to a State office.

Further the court said:

> The ineligibility of the "justices and judges" attaches to them as individuals and not merely in office and extends not only while they hold office, but during the term for which they are elected.

Now listen to the Supreme Court of Kansas, speaking in the stirring days of 1863:

> Nor is the principle changed when the office emanates from another authority.

The court then had in mind the Federal Government, as this case was brought to the Supreme Court in the State of Kansas, because of the indirect effect of an appointment or an alleged appointment of the President of the United States.

> Nor is the principle changed when the office emanates from another authority. The constitutional inhibition remains the same. It is still the law which governs the course of this State—an unchanging and unbending rule from which there is no escape.

Ah, the court spoke idly when it said "from which there is no escape," for in the year 1929 the President of the United States—and the Senate of the United States propose to follow him, no doubt—finds an avenue of escape on the ground that the State constitution can not fix the qualifications of Federal officers; but, Mr. President, drawing such a fine distinction does not overcome the moral responsibility involved in this matter; it does not overcome the proposition that Judge Hopkins has taken an oath of allegiance to his State constitution, that he was elected to the supreme court of the State of Kansas under the mandate of that constitution; and he should not be permitted to accept any other office, State or national, during the term for which he was elected. Therein lies the responsibility of Judge Hopkins.

While technically, and under the law, Kansas can not determine the qualifications of Federal officers, at least, under these circumstances the Federal Government ought to recognize the purpose of the Kansas constitution. We may play with these things; we may toy with these constitutions; but, Mr. President, when we toy with so serious a proposition as the oath of a judge or the constitution of a State and lightly consider it, and disregard it because the State has no power to enforce its constitution, then, Mr. President, we are toying with a dangerous proposition.

We may play with this thing for a while, but every time that public authority puts its stamp of approval upon a violation of an oath by a public official just to that extent we are weakening the strength of government; we are undermining its foundation. So, Mr. President, it becomes a very serious problem in 1929.

Let me read further from the Kansas Supreme Court decision:

> It is true that as a government the State of Kansas has no control over the eligibility or qualifications of officers of the United States. If one of the judges of the State accepts an office under the United States and that Government permits him to perform its duties and receive its emoluments, it is a matter over which the tribunals of the State have no control.

Now listen to the language of the patriots of that day. They said:

> But when the legal question is properly presented it becomes their duty to declare the law, and that law is not changed by the want of power to follow its violation into another jurisdiction.

That is the language of the Supreme Court of Kansas, of which Judge Hopkins is now a member. The court further said:

> It still remains the fundamental law of this State, governing its courts and furnishing the rule for its guidance.

Yes; governing the courts in 1863 and furnishing the rule for their guidance in 1863, but in 1929 defied by an occupant of the bench of the supreme court which uttered these words, so potent in 1863.

The court further stated:

> While we can not interfere with the tenure of office which the United States may prescribe for its officers, it is clearly within our province to declare what effect the acceptance of such an office will have on the tenure of an officer of this State, and when that is declared by the constitution courts have no other duty than to apply in cases properly before them.

That is the material language from the decision of the Supreme Court of the State of Kansas on this particular matter.

So, Mr. President, I contend that, in view of the fact that this is the first time this question has been raised in the Senate, we ought to give it the most careful and deliberate attention and consideration. The Judiciary Committee has not investigated this question. I think it is one of the most important questions that have confronted the Congress for a long time. It is important because it goes to the very root of the difficulties confronting the people of the United States in the enforcement of laws, State and National.

Let me carry this proposition a little further. It is true that Kansas is impotent in this case. Its judicial officers can not enforce its constitution. That is true in this circumstance. We have had some experience in this country with questions of this kind. Speaking of my own State, this very question became a political issue during a campaign in one of the congressional districts of my State. We have a similar provision in our constitution, except that the constitution of my State prohibits judges from holding any office of trust or honor other than a judicial office, and when a judge became a candidate for Congress the people in his district overwhelmingly sustained the constitution of my State. While I had the honor of serving as governor of my State, following that campaign, the Legislature of Wisconsin wrote into the statutes of Wisconsin a provision whereby if any judicial officer violated that constitutional provision such judicial officer would be guilty of a felony, and the statute imposed a penalty of $5,000 fire or not exceeding five years in the penitentiary.

Let us see the position in which we are in these cases. In Wisconsin we have made our constitutional provision potent by law. If Judge Hopkins occupied a judicial position in my State and were nominated by the President to a Federal office other than a judicial office he would subject himself to punishment as being guilty of a felony. Does any greater moral turpitude attach to a judge because the State has a penal statute enforcing the constitution than applies to a judge in another State where the legislature has not taken action to enforce

its constitution? Ah, Mr. President, had the President toyed, and were the Senate to follow the President in toying with the constitution in my own State, had they played with it in respect to the case I stated just a moment ago, then the President and the Senate would be leading that officer behind the bars of the penitentiary.

The only difference between my own State and the State of Kansas in this matter is that we have a law to enforce our constitution and we can enforce it against Presidents and against Congresses. A judicial officer from Wisconsin appointed as I suggested would never reach the office, at least not until he had served his term in the penitentiary, but in the case of the State of Kansas, having a constitutional provision that prohibits a judicial officer or judge, during the term for which he was elected, from holding any office of honor or trust, State or National, we propose to blink at that constitutional provision on the ground that Kansas can not determine the qualifications of Federal officers. No; it can not, but Kansas could make the provision of its constitution potent, and then it would, in effect, determine the qualifications for Federal office so far as its State officers are concerned.

Mr. ALLEN. Mr. President——

The PRESIDING OFFICER (Mr. BLEASE in the chair). Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. BLAINE. I yield to the Senator.

Mr. ALLEN. I think the State has not been concerned to make potent this provision so far as it might affect the possibility of a member of the State court being promoted into the Federal service.

Justice Brewer, who served an honorable career as a member of the Supreme Court of the United States, was appointed from the State court. Everybody reveres his memory. Every member of the State court from that time down has believed it to be perfectly proper to be a candidate for this promotion. When Judge Pollock was appointed from the State court the present Chief Justice Johnson was a candidate for the appointment—a man who has served now 42 years upon the bench.

Mr. BLAINE. Mr. President, I am sorry to interrupt the Senator, but I think that information has been given to the Senate; and if the Senator wants to repeat the information, I trust he will do so in his own time.

Mr. ALLEN. I am glad the Senator told me, because, from his remarks, I thought he had not become acquainted with the information.

Mr. BLAINE. The Senator could draw no such inference from my remarks. The State of Kansas has a constitutional provision which prohibits a judge being appointed to any office whatever, State or Federal, during the term of his election as such judge.

The supreme court of the Senator's own State has said that the judicial arm of that State will enforce the provision of the constitution whenever a case properly comes before it. Kansas has seen fit to enforce that constitutional provision whenever it has had the opportunity to do so; but Kansas can not enforce that constitutional provision when Presidents and Senates of the United States will promote the violation of that constitution.

So, Mr. President, as I suggested, here is a case in which this question has been raised for the first time in the history of America. I think we ought to settle it, and we ought to settle it right. It is important. From the standpoint of the morals involved it is important. How can the Senator from Kansas justify blinking at the provisions of his own constitution, either by the President or by anyone else? How can the Senator excuse Judge Hopkins in this instance, when the judge took a solemn oath to support the constitution of the State of Kansas and was elected to the Supreme Court of the State of Kansas under the provisions of that constitution? How can he justify the judge in violating his oath? I challenge him on the floor of the Senate to do so. The disqualification attaches to Judge Hopkins. It may not be possible to enforce this constitutional provision; but if the eighteenth amendment were involved——

Mr. ALLEN. That is the amendment that is involved in this case, is it not?

Mr. BLAINE. If the eighteenth amendment were involved——

Mr. ALLEN. It is involved.

Mr. BLAINE (continuing). Would the Senator be here advocating that the Congress should not enforce it? If there were no law to enforce the eighteenth amendment, does the Senator contend that citizens of the United States would have a right to violate the eighteenth amendment? Does the Senator argue that a constitutional provision may be violated and flouted at will simply because there is no law to enforce that constitution?

But let me say, Mr. President, that I am sure the Senator dare not take such a position. The Senator dare not say that in the absence of an enforcement law the eighteenth amendment would not be binding upon every person in America. He will not contend that; and when he does not contend that, will he contend that the Kansas constitution may be violated simply because there is no law by which it can be enforced?

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

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. BLAINE. I yield for a question, but not for a speech.

Mr. ALLEN. But the Senator has asked me so many questions that I can not answer——

Mr. BLAINE. The Senator will have the opportunity to answer in his own time.

Mr. ALLEN. Then these were hypothetical questions, as I understand, for the purpose of making statements of a rather daring character?

Mr. BLAINE. We are so used to the term "psychological" that we might call them psychological questions.

Mr. ALLEN. Very well.

Mr. BLAINE. We heard a great deal about that the other day. Perhaps the Senator can psychologically relieve his mind on the eighteenth amendment by advocating that if there is no law to enforce it, then, of course, there is no obligation to obey it.

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

Mr. BLAINE. The Senator can use psychology to advance that proposition as he chooses, or he can use psychology to advance the argument that if there is no law to enforce the eighteenth amendment, it ought not to be obeyed; but when he takes a position on that subject, then I state that his responsibility respecting the constitution of his own State is as great as is his responsibility toward the eighteenth amendment. He will have ample opportunity to answer all of these questions, whether they are psychological, physiological, or hypothetical.

Mr. ALLEN. Very well.

Mr. BLAINE. The fact is—and that is neither psychological nor hypothetical—that the constitution of the State of Kansas prohibits Judge Hopkins from accepting this appointment. Now, that is the fact. The fact is that Judge Hopkins has taken an oath to support that constitution. There is no hypothetical question about those two propositions. Those facts are very direct, very specific, very realistic.

Mr. ALLEN. Mr. President, may I ask the Senator just one question?

Mr. BLAINE. Certainly; I yield for a question.

Mr. ALLEN. There is the possibility of an honest difference of opinion touching the interpretation of a constitution; is there not?

Mr. BLAINE. Not if the Senator from Kansas will follow the decision of the Supreme Court of the State of Kansas rendered in 1863. The Supreme Court of Kansas leaves no question whatever open for interpretation. There is no question open for interpretation. No one contends that Judge Hopkins can not take the Federal bench if he is confirmed by the Senate of the United States. No such contention is made. It is not proposed. The objection is not to that point at all. The objection is as I have stated, and, of course, I need not repeat it; but I wanted the Senator from Kansas to understand that there is no question whatever for construction in this matter. It is admitted that Hopkins will take the Federal bench when he is confirmed by the Senate; and when he does that it must be admitted that he personally has violated the oath he took when he ascended the Supreme Court bench of Kansas. It must be admitted that he has violated the constitution of the State of Kansas.

There is nothing hypothetical about that proposition. There is no opportunity for misinterpretation or misconstruction. There is no room for interpretation.

So, Mr. President, that constitution must be sacred to the Senator from Kansas. I have no doubt but that it is. Will he stand on the floor of the Senate and ask the Senate of the United States to permit Judge Hopkins to violate that constitution and to violate his own oath? It is his privilege if he so chooses.

Perhaps the people of Kansas in the history of the future may find it convenient and necessary to do exactly what my own State did when it passed a law to enforce a similar provision in its constitution, penalizing the violator of that law as a felon. The absence of such a law enforcing the Kansas constitution does not place any higher degree of character upon a judge than that of a felon under the law of my own State when he violates his own oath and violates his own constitution.

Mr. President, my proposition has been that this question is a very serious one. This is the first time it has been raised in this Chamber. It was not passed upon by the Judiciary Committee. Little or no consideration was given to it. There was not even time to obtain a copy of the Kansas constitution before we adjourned. That implies no criticism whatever with respect to the committee or any member thereof. The simple fact is that the matter has not been passed upon. It has not been considered as it ought to be considered. Therefore, my suggestion that this matter be referred back to the Committee on the Judiciary in my opinion will be valuable for the future. It will give the committee an opportunity to investigate the legal question involved, and draft and submit a report that may become important in future years.

But there are other matters as well. The Senator from Maryland [Mr. TYDINGS] has presented facts which, in my opinion, ought to be investigated. There are other questions involved in this matter besides the constitutional question to which I have referred and to which I shall briefly call attention.

I am not surprised that Judge Hopkins took money from the Anti-Saloon League. He knew very well that the Anti-Saloon League in Kansas was a convenient vehicle on which he could ride into office and public favor.

I submit that he was particularly shrewd. Some politicians would pay the Anti-Saloon League to ride in their cart, but Mr. Hopkins got paid—got mileage—for riding in the vehicle which eventually landing him in the office of attorney general and in the office of the justice of the supreme court.

Mr. Hopkins did not show the same allegiance to the Constitution and the laws after he was elected to office that he did when he was seeking office and lecturing for the Anti-Saloon League. If Senators will examine the affidavit of Mr. Hopkins with reference to the money he received from the Anti-Saloon League, they will find his reference to his desire to uphold the laws and the Constitution.

When peaceful, quiet citizens of the United States went into Kansas in 1920 or 1921 in a political campaign we find that "during the incumbency of Judge Hopkins as attorney general of the State of Kansas, there was a mob at Great Bend, Kans., that broke up a perfectly peaceable meeting and subjected the speakers to most brutal and inhuman treatment." I quote now from a letter written by a perfectly responsible citizen of the State of Kansas to the Attorney General of the United States. His letter was buried in the mass of correspondence which was filed in this case. This citizen said:

> The meeting was in the interest of the Non-Partisan League to be sure, but there was no evidence to show that it was in any way seditious. As for the Non-Partisan League, I desire to say that I hold no brief, and perhaps disagree with it in most of its contentions, but this is beside the matter. One of the victims of that mob was driven out on a lone road on a cold, raw night in March, was beaten inhumanly, and left half dead far away from any habitation. As soon as he recovered sufficiently, he came to Topeka and made a special plea to Attorney General Hopkins * * * to have the action of the mob investigated, and, if possible, have the perpetrators of this illegal act brought to the bar of justice. Nothing was ever done by that official.

There is a substantial charge. Here were men, peaceable citizens, attempting to hold a lawful meeting. They had a right under our Constitution of free assembly. They had a right of free speech, and when that right was denied them through violence, the violence of a mob, the attorney general of the State of Kansas was not so zealous in upholding the law and the Constitution as he was when he was upholding a part of the Constitution for the Anti-Saloon League.

That charge has not been investigated by the Judiciary Committee, and I think it involves a most serious charge against the official conduct of Mr. Hopkins while he held the important office of attorney general of the State of Kansas.

There is another complaint. These are not frivolous complaints; these are substantial complaints. They have been buried in the mass of material that has been filed with the Attorney General and the Judiciary Committee; but they are here, they are not buried now, we have dug them up. The charges are made by responsible citizens of Kansas, and they ought to be investigated. If they are true, Judge Hopkins is stamped as a man unfitted for the Federal judiciary.

Let me read another charge, made by the Federation of Labor, dated May 1, 1929, addressed to the Attorney General of the United States, I will not read it all, but a part of it; the writer says:

> First, I might say I was instructed by the executive board of the Kansas State Federation of Labor in executive board meeting in the city of Topeka, Sunday, April 28, to make this protest. There are probably several reasons we could give but I think it is only necessary to mention two or three.
>
> His actions—

Speaking of Richard J. Hopkins—

> and his activities in southeastern Kansas in the year 1920–21. At this time the United Mine Workers of Kansas were on strike, and in order to try to break the strike or to force our members into returning to work the attorney general went into Crawford and Cherokee Counties and dug up an old vagrancy law that had been on the statutes for a number of years. He threatened to place our members in jail for "vags," and on some occasions did so. He called in officers of different towns and explained to them that he wanted the vagrancy law enforced, and in one or two of the smaller towns officers were forced to resign because they would not enforce that law upon good citizens. Men who were born in these counties, men who owned their homes, and had raised their families and were respectable citizens, were to be arrested as vags.

In other words, the striking miners out on the streets, in their own home town, with their families in that town, were to be arrested and punished as vagabonds.

Mr. BLACK. Mr. President, has there been any reply to that before the committee?

Mr. BLAINE. None whatever; there is not a single word of evidence in the record of the committee or before the committee denying this charge.

Mr. BLACK. Has any denial been made?

Mr. BLAINE. I do not know, but so far as the records of the committee are concerned, and so far as the testimony before the committee or before the Attorney General of the United States is concerned, there is not one single iota of evidence from Judge Hopkins to dispute this charge.

Mr. ALLEN. Mr. President, for the information of the Senator of Alabama, I want to say that as this material came in from Mr. Howe, the secretary of the Kansas Federation, there came along at the same time statements explaining the situation under which these alleged difficulties arose.

Mr. BLACK. Mr. President, will the Senator from Wisconsin yield to me to ask a question of the Senator from Kansas?

Mr. BLAINE. I yield.

Mr. BLACK. Does the Senator know whether or not Mr. Hopkins, as attorney general, did take any part officially in causing to be arrested as vagrants men who were working miners but who were out simply at that time on strike?

Mr. ALLEN. When the time comes that I may have the floor, I will answer that.

Mr. BLAINE. The charge goes on further to say:

> On another occasion he went to Crawford County and threatened the miners because they refused to violate the State laws. Each mine has what we call a gas man, or, in other words, a mine examiner, who in a way works under the State mine inspector. This man goes into the mines and examines all the working places before the men are permitted to enter the mines in the morning, and if the mine is in a dangerous condition he will not permit the men to enter it. This happened to be the case at mine No. 15 of the Western Coal & Mining Co., located at Franklin, Kans. On this particular morning when the men went to the mine and found it was marked on the blackboard by the mining examiner as unsafe and not to enter it, or if they did it would be their own fault and nobody would be responsible but themselves if a hundred or 150 were burned to death.
>
> Some one reported to Attorney General Hopkins that the men were not working. He came to Pittsburg—

That is, Pittsburg, Kans.—

> and notified the miners that he did not want that to happen again. He was merely serving notice on them that he wanted them to work whether the mine was in a safe condition or a dangerous one, whether it was a State law or not, they should take chances on sacrificing their lives and violating the law. That is the attitude of Mr. Hopkins toward labor during his time as attorney general in this State, and the tactics he used to crush the labor movement. I believe the above is sufficient ground for our protest against him as Federal judge.
>
> For with the power of a Federal judge we think he would be a dangerous man in so far as our people are concerned, and we feel that there are many other men in the State of Kansas who are as well qualified, if not better, for that position, and we hope the man who receives this appointment will be one that will give justice to all the people of our great State.

That is signed by William Howe, secretary and treasurer of the Kansas State Federation of Labor.

Let me call attention to this fact, that a telegram was sent to Attorney General Mitchell, Washington, D. C., from Pittsburg, Kans., May 23, 1929, as follows:

> By a unanimous vote the action of the executive board in filing protest against the appointment of Richard J. Hopkins was concurred in

by the convention. Motion to request our Senators to submit a second choice was likewise adopted.

That is signed by G. E. Blakely, president, and William Howe, secretary-treasurer, of the Kansas State Federation of Labor.

Mr. SMOOT. Mr. President, will the Senator yield just a moment?

Mr. BLAINE. I yield.

Mr. SMOOT. I ask unanimous consent that when the Senate take a recess to-day it recess until 11 o'clock to-morrow morning.

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

Mr. BLAINE. Mr. President, that was the complaint of the Kansas Federation of Labor, not just through Mr. Howe but by unanimous vote the executive board, at their convention on May 23, 1929, concurred in the objections filed against Mr. Hopkins and in the complaint filed against him.

There was no testimony before the Judiciary Committee to dispute those charges. Judge Hopkins has not attempted to dispute them. There has been no investigation of those charges. So we ought not to be asked to confirm a nominee for the Federal bench when such grave and serious charges are made until there has been a complete and thorough investigation.

Mr. President, there are other charges of greater or lesser importance, depending upon the viewpoint of those who discuss them or who have investigated them; but I think the charges which I have reviewed are substantial; that if true they disqualify Judge Hopkins for the Federal bench, and if they are not true, then the Senate ought to have an opportunity to have some official information on that score. Senators may testify personally, may read letters and telegrams, but the charges are so serious that, in my opinion, there ought to be a full and searching investigation, and that has not been had.

Why, the hypocrisy of the pretense of Judge Hopkins when he was out campaigning for the Anti-Saloon League, preaching obedience to the law and the Constitution, and then when the temptation comes, in order that he might sit upon the Federal bench, he is quite willing to breach not only the constitution of his State, which disqualifies him, but as well to violate his own oath. Zealous, indeed, in upholding the Constitution was Judge Hopkins when there was a question of a drink of liquor involved, but when the constitutional rights of freedom of assembly and freedom of speech in the State of Kansas were involved, Judge Hopkins remained as silent as the tomb. No evidence is here that he made any effort whatever to apprehend and bring to trial the participants in that mob. When the workingmen in the coal mines of Kansas exercised their right to strike, not so zealous was Judge Hopkins of their rights when he went into these regions and attempted to browbeat and bulldoze them by threatening prosecution on the charge of vagrancy.

What a beautiful, beautiful example to set before young America! What a wonderful example in allegiance to the Constitution and the law and to official oaths. When future generations study the history of 1929 how wonderfully exhilarating will it be for them to learn that the President of the United States and the Senate of the United States, in conjunction with a judge, violated the constitution of a State and decorated with the badge of office one who had betrayed his official oath. How ennobling it will be to future generations, as they look back upon the history of 1929 and read the President's message on our duties under the Constitution, to find that he declared that no good citizen would violate the Constitution. And yet, because Kansas had not the power to enforce its constitution, he proposed to do that which brings about a violation of her constitution and a betrayal of an official oath.

Mr. President, that may be all right. Men, of course, have different standards. Some men have one standard and others have another standard Possibly I see these things through a deep mist. Perhaps I can not appreciate that by setting up a purely technical proposition we can make a wrong thing the right thing. I do not know. But following the righteous teachings of our ancestry, I for one am not persuaded that we have a right to violate the constitution of the State of Kansas or of any other State.

Mr. President, I need not renew my motion. I have made the motion to have the nomination referred back to the Committee on the Judiciary, and I shall ask for the yeas and nays upon that motion.

The PRESIDING OFFICER. The question is upon the motion of the Senator from Wisconsin to recommit the nomination to the Committee on the Judiciary. Upon that motion the Senator from Wisconsin has requested the yeas and nays.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

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

Allen	Gillett	McCulloch	Smith
Ashurst	Glass	McKellar	Smoot
Baird	Glenn	McMaster	Steck
Barkley	Goldsborough	McNary	Steiwer
Bingham	Gould	Metcalf	Stephens
Black	Greene	Moses	Sullivan
Blaine	Grundy	Norbeck	Swanson
Blease	Hale	Norris	Thomas, Idaho
Borah	Harris	Nye	Thomas, Okla.
Brock	Harrison	Oddie	Trammell
Brookhart	Hastings	Patterson	Tydings
Broussard	Hatfield	Phipps	Vandenberg
Capper	Hawes	Pine	Wagner
Caraway	Hayden	Pittman	Walcott
Copeland	Hebert	Ransdell	Walsh, Mass.
Couzens	Heflin	Reed	Walsh, Mont.
Dale	Howell	Robinson, Ind.	Waterman
Dill	Jones	Sackett	Watson
Fess	Kean	Schall	Wheeler
Fletcher	Kendrick	Sheppard	
Frazier	Keyes	Shortridge	
George	La Follette	Simmons	

The VICE PRESIDENT. Eighty-five Senators have answered to their names. A quorum is present.

ADDITIONAL HOSPITALS FOR WORLD WAR VETERANS

Mr. SMOOT. Mr. President, as in legislative session, from the Committee on Finance I report back favorably with an amendment the bill (H. R. 234) to authorize an appropriation to provide additional hospital, domiciliary, and out-patient dispensary facilities for persons entitled to hospitalization under the World War veterans' act, 1924, as amended, and for other purposes, and I submit a report (No. 62) thereon. I ask unanimous consent for the immediate consideration of the bill. I wish to say to the Senators from Kansas that if the bill shall lead to any discussion at all, I will withdraw the request, but the House at the present time is waiting to act upon the bill, as it is very earnestly desired that it shall become a law before the next Saturday.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 234) to authorize an appropriation to provide additional hospital, domiciliary, and out-patient dispensary facilities for persons entitled to hospitalization under the World War veterans' act, 1924, as amended, and for other purposes.

Mr. ASHURST. Mr. President——

Mr. SMOOT. Mr. President, at this point I desire to insert in the RECORD a letter addressed to the Senator from Tennessee [Mr. McKELLAR] in relation to an item that is included in the bill by way of amendment. I will ask that the letter be inserted in the RECORD without reading because attention has heretofore been called to it.

The VICE PRESIDENT. Without objection, the letter will be printed in the RECORD.

The letter referred to is as follows:

UNITED STATES VETERANS' BUREAU,
OFFICE OF THE DIRECTOR,
Washington, December 17, 1929.

Hon. KENNETH McKELLAR,
United States Senate, Washington, D. C.

DEAR SENATOR McKELLAR: This will refer to conversation had with you this morning over the telephone during which you requested that I advise you as to what additional construction the bureau believed to be necessary in Tennessee.

As a result of a survey made it has been determined that certain alterations, extensions, and repairs are desirable at Hospital No. 88, Memphis, Tenn. It is believed that provision should be made there for approximately 50 additional beds, for new fireproof nurses' and attendants' quarters, and for such additional construction as may be required to make space available for a regional office at an estimated cost of $400,000.

H. R. 234, a bill to authorize an appropriation to provide additional hospital, domiciliary, and out-patient dispensary facilities for persons entitled to hospitalization under the World War veterans' act, 1924, as amended, and for other purposes, passed the House of Representatives on December 16, 1929. This bill included among the items authorized to be appropriated $1,450,000 to be used for altering, extending and remodeling existing plants where, in my discretion, such altering, extending, and remodeling are most needed.

It is possible that the bureau will be able to complete some of the proposed construction at Hospital No. 88, Memphis, out of the above-referred-to item in H. R. 234. However, this project will have to be considered along with the other projects which also need altering, extending, or remodeling. The question of which construction shall take priority will be determined by the urgency of the need for such construction.

A copy of this letter is inclosed for your use.

Very truly yours,

FRANK T. HINES, *Director.*

Mr. ASHURST. Mr. President, will the Senator include in his request the printing in the RECORD at this juncture of the House report on the bill?

Mr. SMOOT. I have submitted a report on behalf of the Senate committee, which includes the House report, showing the reasons for the passage of the bill.

Mr. ASHURST. I wish the Senator would do that. I ask that it may be printed in the RECORD at this juncture.

Mr. SMOOT. I ask that the report may be printed in the RECORD at this point.

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

The report (S. Rept. No. 62) is as follows:

The Committee on Finance, to whom was referred the bill (H. R. 234) to authorize an appropriation to provide additional hospital, domiciliary, and out-patient dispensary facilities for persons entitled to hospitalization under the World War veterans' act, 1924, as amended, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

On page 3, line 16, strike out "$14,000,000" and insert "$15,950,000."

The additional amount of $1,950,000 authorized to be appropriated is to be allocated as follows:

Four hundred thousand dollars added to special fund of $1,450,000 carried in the House bill, to be used in the discretion of the director.

Four hundred thousand dollars for the construction of a general hospital at Salt Lake City, Utah.

Seven hundred thousand dollars for the construction of a general hospital in the State of West Virginia.

Four hundred and fifty thousand dollars for the construction of additional patient facilities at Camp Custer, Mich.

Following is a copy of the House report:

(H. Rept. 38, 71st Cong., 2d sess.)

ADDITIONAL HOSPITAL, DOMICILIARY, AND OUT-PATIENT DISPENSARY FACILITIES FOR WORLD WAR VETERANS

Mr. JOHNSON of South Dakota, from the Committee on World War Veterans' Legislation, submitted the following report (to accompany H. R. 234):

The Committee on World War Veterans' Legislation, to whom was referred the bill (H. R. 234) to authorize an appropriation to provide additional hospital, domiciliary, and out-patient dispensary facilities for persons entitled to hospitalization under the World War veterans' act, 1924, as amended, and for other purposes, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment:

On page 2, line 12, commencing after the semicolon following the word "thereto," insert "sidewalks abutting hospital reservations."

On page 3, section 3, line 16, strike out "$11,500,000" and insert "$14,000,000."

According to the records of the United States Veterans' Bureau on November 30, 1929, the bureau was operating 47 hospitals, using a part of the facilities of 50 other Government hospitals, and 180 civilian hospitals. The patient load in these hospitals was as follows:

Tuberculosis:	
U. S. Veterans' hospitals	5,177
Public Health Service hospitals	32
Army hospitals	521
Navy hospitals	99
Soldiers' homes	524
Contract hospitals	418
Total, tuberculosis patients	6,771
General medical and surgical:	
U. S. Veterans' hospitals	3,390
Public Health Service hospitals	507
Army hospitals	1,337
Navy hospitals	2,121
Soldiers' homes	461
Contract hospitals	237
Total, general medical and surgical cases	8,053
Neuropsychiatric:	
U. S. Veterans' hospitals	11,200
Army hospitals	166
Navy hospitals	410
Soldiers' homes	661
St. Elizabeths	347
Contract hospitals	1,293
Public health	2
Total, neuropsychiatric patients	14,079

SUMMARY

The grand total for the above three classes of patients is:

U. S. Veterans' hospitals	19,767
Public Health Service hospitals	541
Army hospitals	2,024
Navy hospitals	2,630
Soldiers' homes	1,646
St. Elizabeths	347
Contract hospitals	1,948
Making a total patient load of	28,903

These figures, as above stated, show the patient load of the United States Veterans' Bureau as of November 30, 1929. As of this same date the total capacity of the United States Veterans' hospitals was 22,127, with additional facilities in process of building of 3,796. The average number of beds occupied in United States Veterans' Bureau hospitals during the month of November, 1929, was 19,752.

The records of the United States Veterans' Bureau further show the following to be the number of available hospital beds as of December 7, 1929, divided into three groups—tuberculosis cases, neuropsychiatric cases, and general medical and surgical cases. This summary is based upon reports received by the medical director of the bureau from the commanding officers of the different Government hospitals used by the bureau.

Weekly available bed report, December 7, 1929

	Available beds for tuberculosis patients								Available beds for patients with neuropsychiatric disease								Available beds for patients with general medical and surgical diseases								Total		Grand total
	Infirmary		Semi-infirmary		Ambulatory		Total		Closed ward		Open ward		T. B. psychotic		Total		Medical		Surgical		Others		Total				
	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	
Veterans' Bureau hospitals																											
Castle Point, N. Y.			2		12		23																		23	0	23
Fort Bayard, N. Mex.[1]	24	46			9		33	46																	33	46	79
Fort Lyons, Colo.	6		17		22		45										38		12				50		95	0	95
Legion, Tex.					53		53																		53		53
Livermore, Calif.[2]	3				12		15																		15	[1] 2	17
Oteen, N. C.		8			25		25	8																	25	8	33
Outwood, Ky.	14				22		36																		36	0	36
Rutland Heights	2		1		1		4																		4	0	4
San Fernando [1]					2		2																		2	0	2
Tucson, Ariz.	5						5																		5	0	5
Walla Walla, Wash.	15		12		19		46										7		12		22		41		87		87
Whipple, Ariz.	8		59		34		101										4		8		11		23		124		124
	86	54	91		211		388	54									49		32		33		114		502	56	558
American Lake									4						4										4		4
Augusta, Ga.													11		11										11	0	11
Camp Custer													2		2										2	0	2
Chillicothe, Ohio													1		1				4				4		5	[3]	5
Gulfport, Miss.									13						13										13	0	13
North Chicago, Ill.											11		3		14										14		14
North Little Rock, Ark.									10				2		12										12		12
Northampton, Mass.									2				3		5										5		5
Palo Alto, Calif.																	14		32				46		46	[3]	46
Perry Point, Md.									14				3		17										17	0	17

(See footnotes at end of table)

Weekly available bed report, December 7, 1929—Continued

	Available beds for tuberculosis patients								Available beds for patients with neuropsychiatric disease								Available beds for patients with general medical and surgical diseases								Total		Grand total
	Infirmary		Semi-infirmary		Ambulatory		Total		Closed ward		Open ward		T. B. psychotic		Total		Medical		Surgical		Others		Total				
	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	White	Colored	
Veterans' Bureau hospitals—Con.																											
Philadelphia, Pa.									1						1										1	0	1
Sheridan, Wyo.													2		2										2	0	2
St. Cloud, Minn.									83		10				93										93	0	93
									127		21		27		175		14		36				50		225		225
Boise, Idaho							[1] 4				12				12		23		8				31		47		47
Dwight, Ill.																	24		20		4		48		48	0	48
Fargo, N. Dak.	1						1										11		7		5		23		24	0	24
Fort Harrison, Mont.	7						7																[1] 102		109	[3]	109
Fort Snelling, Minn.							[1] 4				2				2								[1] 6		12	0	12
Hines, Ill.		1	1	1	2	2	3	4			22				22		9		34	5			43	5	68	9	77
Jefferson Barracks	1						1				1	1			1	1	29	2	3		2		34	2	36	3	39
Kansas City, Mo.	1						1		1						1				8		9		17		19		19
Lake City, Fla.									1						1		24		8		1		33		34	0	34
Memphis, Tenn.																	2	3		3	5		7	6	7	6	13
Muskogee, Okla.											5				5		13	5	16	4	6		35	9	40	9	49
Portland, Oreg.	2		2				4		12						12		17		16		6		39		55	0	55
Tuskegee, Ala.		20		11		5		36										14		10				24	0	60	60
Washington, D. C. [2]							[1] 7												4		13		17		24	[1] 9	33
Waukesha, Wis.																	8		5				13		13	0	13
	12	21	3	12	2	7	32	40	14		42	1			56	1	160	24	129	22	51		448	46	536	96	632
Total	98	75	94	12	213	7	420	94	141	0	63	1	27	0	231	1	223	24	197	22	84	0	612	46	1,263	152	1,415
U. S. Army hospitals																											
Denver, Colo.	22				91		113										6				14		20		133		133
El Paso, Tex.							[1] 22	[1] 5				2				2	2				7		9		31	7	38
Hot Springs, Ark.																											0
San Antonio, Tex.	2	2					2	2																	2	2	4
San Francisco, Calif.	8						8				4				4		1		10				11		23		23
Washington, D. C.	4				4		8		2		1				3				19				19		30		30
Total	36	2			95		153	7	2		5	2			7	2	9		29		21		59		219	9	228
U. S. Navy hospitals																											
Brooklyn, N. Y.							[1] 3								[1] 4		8		9				17		24		24
Chelsea, Mass.																									[1] 94		94
Great Lakes, Ill.																	6		6		2		14		14		14
League Island, Pa.	4						4										50		40		20		110		114		114
Mare Island, Calif.																	18						18		18		18
Newport, R. I.																	25		13		5		43		43		43
Puget Sound, Wash.																							[1] 15		15		15
San Diego, Calif.																							[1] 9		9		9
Washington, D. C.																					12		12		12	0	12
Charleston, S. C.																											0
Total	4						7								4		107		68		39		238		343		343
Soldiers' homes																											
Danville, Ill.																	4		1				5		5	[3]	5
Dayton, Ohio		2	5			2	5	4									5	7	2		1		8	7	13	11	24
Hampton, Va.									72	1	88	16			160	17	18		4		13	2	35	2	195	19	214
Hot Springs, S. Dak.	23						23												10				10		33		33
Marion, Ind.													16	2	16	2									16	2	18
Milwaukee, Wis.	2	6	11		8		21	6									17	5	6				23	5	44	11	55
Total	25	8	16		8	2	49	10	72	1	88	16	16	2	176	19	44	12	23		14	2	81	14	306	43	349
U. S. Public Health Servic (U. S. Marine), Evansville, Ind.	1						1										1						1		2		2
Louisville, Ky.																	8			1			8	1	8	1	9
New Orleans, La.																	3	6	20	6	4	3	27	15	27	15	42
Pittsburgh, Pa.																		1						1		1	1
Portland, Me.	2						2										3		2		1		6		8	[3]	8
Total	3						3										15	7	22	7	5	3	42	17	45	17	62
Total other Government hospitals	68	10	16		103	2	212	17	74	1	93	18	16	2	187	21	175	19	142	7	79	5	420	31	913	69	982
Grand total	166	85	110	12	316	9	632	111	215	1	156	19	43	2	418	22	398	43	339	29	163	5	1,032	77	2,176	221	2,397

[1] Available beds unclassified.

[2] Available beds for female patients: Fort Bayard, N. Mex., 6 infirmary; Livermore, Calif., 7 unclassified; San Fernando, Calif., 1 medical; Washington, D. C., 9 unclassified (not psychotic).

[3] Beds available for either white or colored patients.

The hospital construction program submitted by the United States Veterans' Bureau when H. R. 15921, introduced in the second session of the Seventieth Congress, was under consideration, is as follows:

Hospital construction program submitted by United States Veterans' Bureau

Location	Type	Beds	Cost	Purpose
Bedford, Mass.	Neuropsychiatric	150	$360,000	Continued-treatment building; additional staff and attendants' quarters.
New York, N. Y.	do	1,000	1,900,000	Additional facilities at Northport, Long Island; and the new hospital authorized at Somerset Hills, N. J., to replace the Bronx.
New York City	General [1]	200	1,000,000	New hospital and facilities for regional office.
Western New York State	Neuropsychiatric	400	1,700,000	New hospital with facilities for a limited number of general cases to supplement the general beds contemplated at Aspinwall, Pa., and facilities for regional office.
Augusta, Ga.	do	138	300,000	Acute building.
Alabama	General	250	1,100,000	New hospital and facilities for regional office.
Gulfport, Miss.	Neuropsychiatric	138	340,000	Acute building, additional quarters.
Indiana	General [1]	150	500,000	New hospital (exclusive of personnel quarters) and facilities for regional office.
North Chicago	Neuropsychiatric	150	280,000	Additional beds and quarters for personnel.
Knoxville, Iowa [1]	do	150	270,000	Continued-treatment building.
Albuquerque, N. Mex.	General [1]	250	1,250,000	New hospital and facilities for regional office.
San Francisco, Calif.	do [1]	200	1,000,000	New hospital with facilities for diagnostic center and regional office.
Tucson, Ariz.	Tuberculosis	100	280,000	Additional beds and quarters.
Texas	Neuropsychiatric	300	1,200,000	New hospital and facilities for regional office.
Total		3,576	[2] 11,480,000	

[1] Facilities will be provided for all three types of cases with beds for general condition predominant.

[2] To offset the expenditure called for by the above program the bureau proposes to secure legislation authorizing the sale of the hospital properties at the Bronx, N. Y., Dwight, Ill., and Waukesha, Wis., which it is conservatively estimated will result in the return of not less than $3,750,000 to the credit of miscellaneous receipts, Treasury Department. In addition, it is estimated that the sum of $2,000,000 will be saved to the Federal Government through the return of the hospital property at Fort Bayard, N. Mex., to the War Department for the purpose of housing a regiment of troops. Savings of approximately $143,000 annually will also be effected through the proposed evacuation of the space now reserved in leased buildings for the regional offices at New York, N. Y., San Francisco, Calif., Albuquerque, N. Mex., Indianapolis, Ind., and possibly Dallas, Tex. The regional offices at Buffalo, N. Y., and Birmingham, Ala., are occupying space in Government-owned buildings.

The Director of the United States Veterans' Bureau is now studying the question of additional hospital needs over and above those provided for in this bill and as soon as it is possible will make a further report to this committee, at which time consideration can be given to such additional projects as are shown to be needed.

It will be noted that the program of the Director of the United States Veterans' Bureau is largely to provide additional facilities for neuropsychiatric cases and that while four of the projects mentioned are designated as hospitals of the general type, these facilities will provide for all three types of cases with beds for general medical and surgical cases predominating. The director of the bureau, when appearing before the committee, stated that the bureau's experience has shown that it is desirable to provide in each general hospital a certain number of beds for neuropsychiatric cases and a certain number of beds for tubercular cases. The wards might be termed as clearing houses. It is to such hospitals that suspected neuropsychiatric or tubercular cases will be sent. Their condition will be carefully studied and, if possible, a recovery made. If, after intensive treatment, it is determined that the disease will be of long duration, or that recovery within a reasonable time may not be had, the plan is to then send the patient to an institution for the care of such cases alone.

It will be noted that tubercular facilities are provided for at Tucson, Ariz. As is well known, there is already existing a large tubercular hospital at that point and the additional beds and quarters provided for herein are necessary to take care of the present load.

It is the plan of the bureau to offset the expenditures authorized by this bill upon the completion of the program by securing legislation authorizing the sale of the hospital properties at the Bronx, N. Y.; Dwight, Ill.; and Waukesha, Wis.; which, it is conservatively estimated by the director of the bureau, will result in the return of not less than $3,750,000 to the credit of miscellaneous receipts, Treasury Department. In addition, it is estimated that upon the completion of the program the hospital property at Fort Bayard, N. Mex., may be returned to the War Department for the purpose of housing troops, which would result in a probable saving to the Federal Government of $2,000,000. Savings of approximately $143,000 annually will also be effected through the proposed evacuation of the space now reserved in leased buildings for the regional offices at New York, N. Y.; San Francisco, Calif.; Albuquerque, N. Mex.; Indianapolis, Ind.; and possibly Dallas, Tex. The regional offices at Buffalo, N. Y., and Birmingham, Ala., are occupying space in Government-owned buildings.

The savings, in so far as the regional offices are concerned, will be immediate upon the completion of this program, as it has been recommended by the bureau, and in adopting the program your committee agrees that sufficient space in the administration buildings of such hospitals should be allotted to house the activities of the regional offices. In so far as the sale of the properties mentioned is concerned, your committee did not feel it proper to include in the present bill any authority, as experience may show upon the completion of this program, as has been the case with others, that the patient load of the Veterans' Bureau will not permit the immediate disposal of such plants.

The greatest factor leading to the present situation requiring additional hospital facilities are the actions by previous Congresses in enacting the following laws:

1. Congress, under Public, No. 194, Sixty-seventh Congress, approved April 20, 1922 (42 Stat. 496), directed that all hospital facilities under the control and jurisdiction of the United States Veterans' Bureau should be available for veterans of the Spanish-American War, the Philippine insurrection, and the Boxer rebellion suffering from neuropsychiatric and tubercular ailments and diseases.

2. Under date of June 7, 1924, Congress, under the World War veterans' act, 1924, in section 202, provided that all hospital facilities under the control and jurisdiction of the bureau should be available for every honorably discharged veteran of the Spanish-American War, the Philippine insurrection, the Boxer rebellion, or the World War suffering from neuropsychiatric or tubercular ailments and diseases, paralysis agitans, encephalitis lethargica, or amœbic dysentery, or the loss of sight of both eyes, regardless of whether such ailments or diseases are due to military service or otherwise, including traveling expenses as granted to those receiving compensation and hospitalization under this act.

Section 202, paragraph (10), of the World War veterans' act, provides as follows:

"(10) That all hospital facilities under the control and jurisdiction of the bureau shall be available for every honorably discharged veteran of the Spanish-American War, the Philippine insurrection, the Boxer rebellion, or the World War suffering from neuropsychiatric or tubercular ailments and diseases, paralysis agitans, encephalitis lethargica, or amœbic dysentery, or the loss of sight of both eyes, regardless of whether such ailments or diseases are due to military service or otherwise, including traveling expenses as granted to those receiving compensation and hospitalization under this act. The director is further authorized, so far as he shall find that existing Government facilities permit, to furnish hospitalization and necessary traveling expenses incident to hospitalization to veterans of any war, military occupation, or military expedition, including those women who served as Army nurses under contracts between April 21, 1898, and February 2, 1901, not dishonorably discharged, without regard to the nature or origin of their disabilities: *Provided*, That any and all laws applicable to women who belonged to the Nurse Corps of the Army after February 2, 1901, shall apply equally to members of the Army Nurse Corps who served under contract between April 21, 1898, and February 2, 1901, including all women who served honorably as nurses, chief nurses, or superintendent of said corps in said period."

In approving the program offered by the director and submitting this report, there is no intention on the part of the committee to designate a particular location for hospitals. It is expected to place the structures in the areas set out therein at such places as the director may select, but if conditions should be so altered as to require changes in location or allocation, it is expected that the director, with the approval of the Federal Board for Hospitalization and the President, will make such changes.

There has been included in this bill, in addition to the projects outlined in the program submitted by the United States Veterans' Bureau when H. R. 15921, second session, Seventieth Congress, was under consideration, $1,450,000 to be used by the director for altering, extending, and remodeling of existing plants where, in his discretion, such altering, extending, and remodeling are most needed. This amount has been found by the director to be desirable and necessary in order that cer-

tain existing plants may be remodeled, altered, etc., so as to obtain the maximum bed capacity, such as adding a building for attendants' quarters where now they are quartered in a part of the main hospital building, thus making available additional beds for patients.

There has also been added $1,050,000 for additional beds at the United States Army Hospital, Hot Springs, Ark., this amount being 70 per cent of the total amount to be expended at that institution. Your committee felt, in view of the excellent results which have been obtained by treatment offered at this institution, that these additional facilities should be made available, particularly for World War veterans, and that 70 per cent of the cost of the additional facilities should be provided for specifically under a Veterans' Bureau authorization bill.

It is believed that pending decision by the Congress as to the consolidation of the National Home for Disabled Volunteer Soldiers and Veterans' Bureau and a further study of the hospital load and future expected hospital load, this bill represents the maximum hospital construction which should be authorized at this time.

In the light of the above, your committee recommends the passage of H. R. 234, which authorizes the appropriation of a lump sum of $14.000,000.

In closing, there is given the total amount expended to date by the bureau for capital construction; that is, new construction, improvements, major alterations and remodeling, together with the cost of this bill and the sum total of the two:

Capital construction	$90, 435, 942. 11
Amount of this bill	14, 000, 000. 00
Total	104, 435, 942. 00

DECEMBER 13, 1929.

Hon. ROYAL C. JOHNSON,
House of Representatives, Washington, D. C.

MY DEAR MR. JOHNSON: The attached table is submitted in connection with your proposed study of the hospital construction program. The table referred to above shows the number of veterans awaiting hospitalization as of December 1, 1929, subdivided as to type of beneficiary and class of disability.

It will be noted from the attached chart (not printed) that 194 and 1,505 were awaiting hospitalization for service and non-service-connected disabilities, respectively. However, in analyzing the total of 1,699 veterans awaiting hospitalization, consideration must be given to the fact that the length of time the veterans have been on the waiting list is not given, and also consideration has not been given to a distribution as to whether the condition would warrant emergency treatment.

The following table shows the number of veterans awaiting hospitalization by class of diseases and type of patient:

Class of disability	Service connected	Nonservice connected	Total
Tuberculosis	18	68	86
Psychotic	83	439	522
Other neuropsychiatric	47	240	207
General	36	768	804
Total	184	1,515	1,699

It will be noted from the table given above that approximately 85 per cent of the number awaiting hospitalization are non-service-connected cases. It will also be noted that 47.3 per cent of the total cases pending fall under the caption of general medical cases.

A detailed analysis was made of 407 cases awaiting hospitalization as of November 1, 1929, and it was found that in only 6 cases was immediate treatment indicated. It was also noted from the analysis mentioned above 43 per cent of the service-connected cases were admitted to the hospitals within approximately 10 days after the report was submitted and 50 per cent had refused hospitalization within the same time.

The study of 407 cases indicated above shows that all service-connected cases, with the exception of 2, were admitted to or had been offered hospitalization within a comparatively short time subsequent to the date of the report.

The attached chart (not printed) also shows that 284 service-connected cases were awaiting hospitalization as of December 1, 1929. However, of this number, 100 had refused hospitalization for personal reasons. In view of the analysis of the 407 cases referred to above, it is reasonable to assume that approximately all the service-connected veterans indicated on the chart as requiring treatment have been offered hospitalization as of this date, and further that the majority of non-service-connected cases actually in need of immediate treatment have been cared for.

Very truly yours,

FRANK T. HINES, *Director.*

Further, there is set forth a résumé of the United States Veterans' Bureau reports showing the number of veterans awaiting hospitalization as of December 1, 1929, subdivided as to type of beneficiary and class of disability, and a letter from the Director of the United States Veterans' Bureau explaining the various figures as given therein.

Patients awaiting hospitalization in Government hospitals, December 1, 1929

Regional office	Tuberculosis						Psychotic						Other neuropsychiatric						General						Total					
	Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons		Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons		Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons		Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons		Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons	
	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210
Albuquerque, N. Mex.											1																		1	
Atlanta, Ga.							5	26	21	5			2	36						3	1		2	4	7	65	22	5	2	4
Baltimore, Md.	1	1						2		12				10					1	21					2	34		12		
Birmingham, Ala.		4				2								7	5		1		11	21			1	2	11	32	5		2	4
Boise, Idaho										9																		9		
Boston, Mass.							2			31	32														2			31	32	
Buffalo, N. Y.	2	9	1				4	5	7	5			1	1											7	15	8	5		
Burlington, Vt.										1																		1		
Casper, Wyo.															1													1		
Charleston, W. Va.					1			7	1	8				1					1	14					1	22	1	8	1	
Charlotte, N. C.									4	6			3	10											3	10	4	6		
Chicago, Ill.							2	1	2	5															2	1	2	5		
Cincinnati, Ohio		1					5	9	16	12			2	8	1	1			3	1			3		10	19	17	13	3	
Cleveland, Ohio	2	2					6	8	5	9				1						2					8	13	5	9		
Columbia, S. C.	1	4			1	1	1	2	2	2			1	8					1	7			2	10	4	21	2	2	3	11
Dallas, Tex.								15		6				2						1						18		6		
Denver, Colo.		1			2		1	8	3	19				9	1		1		4	35			2	21	5	53	4	19	5	21
Des Moines, Iowa					4		2	12	3	19	5	1					1			5			3	4	2	17	3	19	13	5
Detroit, Mich.					2		1	19	2	16	1														1	19	2	16	3	
Fargo, N. Dak.												6																		6
Hartford, Conn.		2	1						1	12														2		2	2	12		2
Helena, Mont.									1	11																	1	11		
Indianapolis, Ind.		1					3	15	4	5			2	7						6					5	29	4	5		
Jackson, Miss.	8	12						2	2	5			1	14					8	41					17	69	2	5		
Jacksonville, Fla.															1		1				1		2	5			2		2	6
Kansas City, Mo.							1	10	5	19			4	10	1					170		2		3	5	190	6	21		3
Little Rock, Ark.										2																		2		
Los Angeles, Calif.		4			4	3		10		9				2										9		16		9	4	12
Louisville, Ky.					1		1	22	2				2	11						4			1	1	3	37	2		2	1
Manchester, N. H.									2	2																	2	2		

Patients awaiting hospitalization in Government hospitals, December 1, 1929—Continued

Regional office	Tuberculosis						Psychotic						Other neuropsychiatric						General						Total					
	Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons		Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons		Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons		Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons		Not in civil and State hospitals		In civil and State hospitals awaiting transfer		Hospitalization refused for personal reasons	
	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210	Service connected	Secs. 202-210
Minneapolis, Minn			1				18	13							2						1			19	18	13	4			19
Nashville, Tenn				1	2	4	2	10	1	9				1					1	165			3	21	3	176	1	10	5	25
Newark, N. J	3	1				5	9	19	2	32	6														12	20	2	32	6	5
New Orleans, La							7	36	2	2			7	5				2							14	41	2	2		2
New York, N. Y		21		9			9	10	45	59															9	31	45	68		
Oklahoma City, Okla								13	58					22												35	58			
Omaha, Nebr										3		4											1	1				3	1	5
Philadelphia, Pa					5	13		11	1	131	5	24		1			1	2						1		12	1	131	11	40
Phoenix, Ariz							2	4																	2	4				
Pittsburgh, Pa	1	4	1					14	1	2				6			1							4	1	24	2	2	1	4
Portland, Oreg						1												1						9						11
Providence, R. I		1						1		3																2		3		
Reno, Nev							1	3																	1	3				
Salt Lake City, Utah										1					1											2		2		
San Antonio, Tex								17		4			2	36						50					2	103		4		
San Francisco, Calif								10	3	13																10	3	13		
Seattle, Wash								9		24																9		24		
St. Louis, Mo					1	1		91		3				22						5				1		118		3	1	
Washington, D. C			2	5			1						20				2	4	6	47		1		10	27	47	2	6	2	24
Wichita, Kans								5		9				10						170				5		185		9		1
Total	18	68	6	15	23	30	83	439	196	525	50	35	47	240	11	3	7	10	36	768	3	3	20	132	184	1,515	216	546	100	207

The VICE PRESIDENT. The Chair understands that an amendment is reported by the committee.

Mr. SMOOT. The amendment reported by the committee is, in section 3, on page 3, line 16, to strike out "$14,000,000" and to insert "$15,950,000." Of the increased amount, $400,000 is to be added to the special fund of $1,450,000 carried in the House bill, to be used in the discretion of the director, and in accordance with the letter submitted by the Senator from Tennessee [Mr. McKELLAR]; for the construction of a general hospital at Salt Lake City, $400,000; for the construction of a general hospital in the State of West Virginia, $700,000; and for the construction of additional patient facilities at Camp Custer, Mich., $450,000.

The amendment reported by the committee was, in section 3, page 3, line 16, after the words "the sum of," to strike out "$14,000,000" and insert "$15,950,000," so as to make the bill read:

Be it enacted, etc., That in order to provide sufficient hospital, domiciliary, and out-patient dispensary facilities to care for the increasing load of mentally afflicted World War Veterans and to enable the United States Veterans' Bureau to care for its beneficiaries in Veterans' Bureau hospitals rather than in contract temporary facilities and other institutions, the Director of the United States Veterans' Bureau, subject to the approval of the President, is hereby authorized to provide additional hospital, domiciliary, and out-patient dispensary facilities for persons entitled to hospitalization under the World War veterans' act, 1924, as amended, by purchase, replacement, and remodeling, or extension of existing plants, and by construction on sites now owned by the Government or on sites to be acquired by purchase, condemnation, gift, or otherwise, of such hospitals, domiciliary, and out-patient dispensary facilities, to include the necessary buildings and auxiliary structures, mechanical equipment, approach work, roads, and trackage facilities leading thereto, sidewalks abutting hospital reservations, vehicles, livestock, furniture, equipment, and accessories; and also to provide accommodations for officers, nurses, and attending personnel; and also to provide proper and suitable recreational centers; and the Director of the United States Veterans' Bureau is authorized to accept gifts or donations for any of the purposes named herein. Such hospital and domiciliary plants to be constructed shall be of fireproof construction, and existing plants purchased shall be remodeled to be fireproof, and the location and nature thereof, whether for domiciliary care or the treatment of tuberculosis, neuropsychiatric, or general medical and surgical cases, shall be in the discretion of the Director of the United States Veterans' Bureau, subject to the approval of the President.

SEC. 2. The construction of new hospitals, domiciliary facilities, or dispensaries, or the replacement, extension, alteration, remodeling, or repair of all hospitals, domiciliary facilities, or dispensaries heretofore or hereafter constructed shall be done in such manner as the President may determine, and he is authorized to require the architectural, engineering, constructing, or other forces of any of the departments of the Government to do or assist in such work, and to employ individuals and agencies not now connected with the Government, if in his opinion desirable, at such compensation as he may consider reasonable.

SEC. 3. For carrying into effect the preceding sections relating to additional hospitals and domiciliary and out-patient dispensary facilities there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $15,950,000 to be immediately available and to remain available until expended. That not to exceed 3 per cent of this sum shall be available for the employment in the District of Columbia and in the field of necessary technical and clerical assistants at the customary rates of compensation, exclusively to aid in the preparation of the plans and specifications for the projects authorized herein and for the supervision of the execution thereof, and for traveling expenses, field-office equipment, and supplies in connection therewith.

SEC. 4. The President is further authorized to accept from any State or other political subdivision, or from any corporation, association, individual, or individuals, any building, structure, equipment, or grounds suitable for the care of the disabled, with due regard to fire or other hazards, state of repair, and all other pertinent considerations, and to designate what department, bureau, board, commission, or other governmental agency shall have the control and management thereof.

The VICE PRESIDENT. The question is on agreeing to the amendment reported by the committee.

Mr. CARAWAY. Mr. President, I should like to ask the Senator from Utah if the item for the hospital at Hot Springs is included in the bill?

Mr. SMOOT. I will say to the Senator that it is.

Mr. ASHURST. I am not a member of the committee, but I am familiar with the amendment and I hope it may be agreed to.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. KEAN. Mr. President, I present certain telegrams relative to House bill 234, the so-called Rogers hospital bill, which I ask may be printed in the RECORD.

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

JERSEY CITY, N. J., *December 17, 1929.*

Senator HAMILTON S. KEAN,
Senate Office Building, Washington, D. C.:

American Legion of Hudson County asked you to aid Rogers hospital bill to pass Senate before Christmas. This bill passed House to-day.

JAMES H. CLARKE,
County Commander, American Legion, of Hudson County.

JERSEY CITY, N. J., *December 17, 1929.*

Hon. HAMILTON KEAN,
United States Senator,
United States Senate, Washington, D. C.:

We ask your support in bringing about the passing of the so-called Rogers hospital bill, as passed by Congress on Monday. Our disabled buddies are looking for more hospital and medical treatment. Hoping for your earnest support in having this bill pass by Christmas.

FRED ESENBARTH,
Commander Corporal Fred C. Hall Post, 1398.
Veterans of Foreign Wars of the United States.

TRENTON, N. J., *December 16, 1929.*

The Hon. HAMILTON F. KEAN,
Senate Office Building, Washington, D. C.:

Have learned of passage in House of the Rogers hospital bill. Urge that you do all possible to secure approval of Senate in as speedy manner as House action.

RICHARD HARSHORNE,
State Commander, American Legion.

JERSEY CITY, N. J., *December 17, 1929.*

Hon. HAMILTON KEAN,
United States Senator from New Jersey,
United States Senate, Washington, D. C.:

We urge your support in bringing about the Rogers hospital bill as passed by the House already.

JOS. F. HENNINGER,
Commander Hudson County Council
Veterans of Foreign Wars of the United States.

JERSEY CITY, N. J., *December 17, 1929.*

Hon. HAMILTON KEAN,
United States Senator from New Jersey,
United States Senate, Washington, D. C.:

We urge your support in bringing about the Rogers hospital bill as passed by the House on Monday.

JOS. F. HENNINGER,
Commander Hudson County Council
Veterans of Foreign Wars of the United States.

PHILADELPHIA, PA., *December 17, 1929.*

Senator HAMILTON F. KEAN,
Senate Building, Washington, D. C.:

Have used all my influence in effort to get veterans' hospitalization bill reported out of committee and passed by the House. The pleasant news of its passage by the House reached me to-day by telegram. I therefore personally urge you to consider the absolute need and merits of this legislation and trust it will receive your affirmative vote. Please do your utmost to have it passed before Christmas as our evidence of good faith to the disabled veterans.

HERBERT H. BLIZZARD.

AWARDS OF MIXED CLAIMS AND TRIPARTITE CLAIMS COMMISSIONS

Mr. SMOOT. As in legislative session, I report from the Committee on Finance an original joint resolution, and I ask unanimous consent for its present consideration. I will explain it in just a few words after it shall have been read.

The VICE PRESIDENT. The joint resolution will be read.

The joint resolution (S. J. Res. 109) extending for two years the time within which American claimants may make application for payment, under the settlement of war claims act of 1928, of awards of the Mixed Claims Commission and of the Tripartite Claims Commission was read the first time by its title and the second time at length, as follows:

Resolved, etc., That subsection (g) of section 2 and subsection (f) of section 5 of the settlement of war claims act of 1928 are amended, respectively, by striking out the words "two years" wherever such words appear therein and inserting in lieu thereof the words "four years."

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

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

Mr. SMOOT. Mr. President, in connection with the joint resolution I wish to insert in the RECORD at this time a letter from Robert W. Bonynge, the agent of the Mixed Claims Commission, a letter from Hon. H. L. Stimson, Secretary of State, and a letter from Assistant Secretary of the Treasury Ogden L. Mills, calling attention to the necessity for the passage of the measure.

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

The letters are as follows:

MIXED CLAIMS COMMISSION,
Washington, October 29, 1929.

The honorable the SECRETARY OF STATE.

SIR: Reference is made to the following provision found in the settlement of war claims act of 1928 relating to the payment of the awards of this commission (45 Stat. 255):

"(g) No payment shall be made under this section unless application therefor is made within two years from the date of the enactment of this act in accordance with such regulations as the Secretary of the Treasury may prescribe."

The 2-year period referred to in this act expires on March 9, 1930.

There are now pending before this commission, filed under the agreement of August 10, 1922, a group of so-called sabotage claims, Docket Nos. 8103, 8117, et al., involving total damages, exclusive of interest, in excess of $20,000,000. The record in this group of cases is very voluminous, and the commission, at a meeting held in Hamburg on October 5, 1929, authorized the filing of certain additional evidence, and provided that each agent "may file at any time before January 7, 1930, evidence in rebuttal of the evidence submitted by this order; and that prior to February 1, 1930, the agents, respectively, may file typewritten or printed supplementary briefs dealing with the evidence so filed."

There are also pending two debt claims, Docket Nos. 8304 and 8305, involving a total amount, exclusive of interest, in excess of $1,760,000. In these two claims the brief of the German agent has not as yet been filed.

In addition to the foregoing there are also pending under the agreement of August 10, 1922, either before the commission or in the agency, five claims, not including the claim of the United States for the cost of the army of occupation, list No. 12320.

Under the agreement of December 31, 1928, covering the so-called late claims there are pending before the commission on memorial over 2,000 claims that will require more or less work on the part of each agency. In these particular claims the German agent under the rules of the commission has until February 1, 1930, to file his answer, together with evidence in defense. Subsequent to the filing of the answer by the German agent, this agency, under the rules, has a period of 30 days within which to file rebuttal evidence and brief in support of the particular claim. There is then an additional period of 30 days in which the German agent may file a reply brief.

The situation as above outlined makes it manifestly improbable that the commission will be able to dispose of all pending claims in time for the particular claimant to file his application for payment with the Secretary of the Treasury prior to March 10, 1930, as provided for in the above-quoted provision of the settlement of war claims act.

In view of the foregoing this matter is brought to your attention in order that such steps as may be deemed appropriate may be taken to secure an amendment to the settlement of war claims act extending the time within which claimants may file with the Treasury Department their application for payment. The time for filing application for payment with the Treasury Department should, in my opinion, be extended for a further period of two years.

A precedent for action of this character is to be found in the act of February 21, 1929, extending for one year the period fixed in the settlement of war claims act (45 Stat. 269) within which former owners of enemy property may make application to the Alien Property Custodian for the return of such property.

Very truly yours,

ROBERT W. BONYNGE, *Agent.*

DEPARTMENT OF STATE,
Washington, November 7, 1929.

The honorable the SECRETARY OF THE TREASURY.

SIR: There is transmitted herewith a copy of a letter dated October 29, 1929, from the Hon. Robert W. Bonynge, agent of the United States, Mixed Claims Commission, United States and Germany, setting forth the situation with respect to claims now pending before the commission and its possible relation to the limitation imposed by subsection (g), section 2, of the settlement of war claims act of 1928 (45 Stat. L. 255), upon the filing of applications for the payment of awards made by the commission.

The department concurs in the suggestion of the American agent that steps be taken to procure an amendment to subsection (g) so as to extend the time for filing applications for the payment of awards for the further period of two years.

Very truly yours,

H. L. STIMSON.

THE SECRETARY OF THE TREASURY,
Washington, December 18, 1929.

Hon. REED SMOOT,
Chairman Committee on Finance, United States Senate.

MY DEAR MR. CHAIRMAN: I am transmitting herewith a draft of a joint resolution to extend for a period of two years the time within which American nationals who have obtained awards from the Mixed Claims Commission, United States and Germany, or from the Tripartite Claims Commission, may make application to the Treasury for the payment of such awards.

The settlement of war claims act requires that an application for payment be made within two years from the date of the enactment of that act (March 10, 1928). It was generally admitted, I believe, at the time the act was under consideration by the Congress that if the so-called "late claims agreement" was entered into, it would be necessary to extend this period. This agreement has been entered into, as you know. Furthermore, I am advised that some of the other claims pending with the Mixed Claims Commission will probably not be disposed of in time to permit application for payment to be made prior to March 10 of next year.

The Department of State, the American agent, and the Treasury recommend the enactment of the proposed legislation. I am transmitting herewith a letter from the Department of State and a copy of a letter from the American agent to the Secretary of State.

Very sincerely,

OGDEN L. MILLS,
Acting Secretary of the Treasury.

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

As in legislative session,

MEDITERRANEAN FRUIT FLY

Mr. JONES. Mr. President, the House sent to the Senate to-day two joint resolutions, which were referred to the Committee on Appropriations. It is important that they should be acted on as promptly as possible.

From the Committee on Appropriations, I report favorably without amendment the joint resolution (H. J. Res. 174) making an emergency appropriation for the control, prevention of the spread, and eradication of the Mediterranean fruit fly, and I ask unanimous consent for its present consideration.

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

Resolved, etc., That the sum of $1,290,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to remain available until June 30, 1930, as an emergency appropriation for necessary expenses for the control, the prevention of the spread, and eradication of the Mediterranean fruit fly, the employment of persons and means in the city of Washington and elsewhere, and for other expenses, including the same objects specified under the heading "Salaries and general expenses, Plant Quarantine and Control Administration," in the agricultural appropriation act for the fiscal year 1930, investigations, printing, and the maintenance, repair, and operation of passenger-carrying vehicles outside of the District of Columbia: *Provided,* That of this sum $290,000 shall be available to reimburse the appropriation, "Salaries and expenses, Plant Quarantine and Control Administration," for expenditures made therefrom for such control and eradication: *Provided further,* That in the discretion of the Secretary of Agriculture no expenditure shall be made hereunder until a sum or sums adequate to State cooperation shall have been appropriated, subscribed, or contributed by State, county, or local authorities or individuals or organizations.

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

EMERGENCY APPROPRIATIONS FOR DEPARTMENT OF JUSTICE

Mr. JONES. Also, from the Committee on Appropriations, I report favorably without amendment the joint resolution (H. J. Res. 175) to provide additional appropriations for the Department of Justice for the fiscal year 1930 to cover certain emergencies, and I ask unanimous consent for its immediate consideration.

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

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

Resolved, etc., That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year 1930 to cover certain emergencies in the Department of Justice:

Settlement of war claims act of 1928: For protecting the interests of the United States in claims arising under the settlement of war claims act of 1928, including personal services in the District of Columbia and elsewhere, traveling expenses, and the employment of experts at such rates of compensation as may be determined by the Attorney General, $62,000: *Provided,* That no salary shall be paid hereunder at a yearly rate in excess of $10,000 and not more than two salaries shall be paid hereunder at a yearly rate in excess of $9,000.

United States Industrial Reformatory, Chillicothe, Ohio: For maintenance, including the same objects specified under this caption in the act making appropriations for the Department of Justice for the fiscal year 1930, $312,091, of which sum not to exceed $60,241 shall be available for salaries and wages of all officers and employees.

Sequoyah Orphan Training School, Tahlequah, Okla.: For construction and equipment of electric lines, including payment to the city of Tahlequah, Okla., for cost of construction of a power line from Tahlequah, Okla., to the Sequoyah Orphan Training School, $7,500.

Mr. THOMAS of Oklahoma. Mr. President, I should like to have the clerk read again to the Senate the last paragraph in the joint resolution.

Mr. JONES. The paragraph to which the Senator refers, I understand, covers a situation in which he is interested.

The VICE PRESIDENT. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

Sequoyah Orphan Training School, Tahlequah, Okla.: For construction and equipment of electric lines, including payment to the city of Tahlequah, Okla., for cost of construction of a power line from Tahlequah, Okla., to the Sequoyah Orphan Training School, $7,500.

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

CHEBOYGAN LIGHTHOUSE RESERVATION, MICH.

Mr. VANDENBERG. As in legislative session, from the Committee on Commerce I report back favorably without amendment the bill (S. 846) to authorize the Secretary of Commerce to convey to the State of Michigan for park purposes the Cheboygan Lighthouse Reservation, Mich., and I submit a report (No. 63) thereon.

The lighthouse reservation is an abandoned one, and the bill proposes to transfer it to the State of Michigan for a public park. In involves only 42 acres; it is approved by all branches of the Government; and it is very essential that action should be taken as soon as possible. There will be no debate I am sure. I ask unanimous consent for immediate consideration of the bill.

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

Be it enacted, etc., That the Secretary of Commerce is hereby authorized to convey by quit-claim deed to the State of Michigan, subject to the conditions hereinafter provided, all the lands embraced within the Cheboygan Lighthouse Reservation, Mich., described as follows:

Beginning at a point in the west boundary of lot 1, section 22, township 38 north, range 1 west, which is due west and 1,320 feet distant from the quarter corner between sections 22 and 23, township 38 north, range 1 west; thence north 1° 25′ west, 664 feet to a stake; thence continuing north 1° 25′ west, 20 feet more or less to the shore of Lake Huron; thence westerly and southwesterly along the shore of Lake Huron to its intersection with a line through the point of beginning and bearing south 88° 35′ west from same; thence north 88° 35′ east, 90 feet more or less to a stake; thence continuing north 88° 35′ east, 2,686 feet to the point of beginning, containing in all 41.13 acres more or less.

SEC. 2. The lands herein authorized to be conveyed shall be used by the State of Michigan solely for public-park purposes subject to the right of the United States to have access to such lands at all times for the purpose of maintaining a telephone cable across such lands. The deed executed by the Secretary of Commerce under the provisions of section 1 of this act shall contain the express condition that if the State of Michigan shall cease at any time to use such lands for public-park purposes, or shall at any time use such lands or permit their use for any purpose not contemplated by this act, or shall attempt to alienate them, they shall revert to the United States.

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

As in legislative session,

EXTENSION OF OIL AND GAS PROSPECTING PERMITS

Mr. KENDRICK. Mr. President, on yesterday I reported favorably from the Committee on Public Lands and Surveys the bill (S. 1752) granting further extensions of existing oil and gas prospecting permits. At that time the Senator from Nebraska [Mr. NORRIS] objected to its immediate consideration. In view of the fact that it is an emergency measure and it is very necessary that it should be passed, I ask unanimous consent

for its immediate consideration, and I hope the Senator from Nebraska will not press his objection.

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

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands and Surveys with an amendment to strike out all after the enacting clause and to insert:

Be it enacted, etc., That any oil or gas prospecting permit issued under the act of February 25, 1920 (41 Stat. p. 437), or extended under the act of January 11, 1922 (42 Stat. p. 356), or as further extended under the acts of April 5, 1926 (44 Stat. p. 236), and March 9, 1928 (45 Stat. p. 252), may be extended by the Secretary of the Interior for an additional period of three years in his discretion on such conditions as he may prescribe.

SEC. 2. Upon application to the Secretary of the Interior, and subject to valid intervening rights and to the provisions of section 1 of this act, any permit which has already expired because of lack of authority under existing law to make further extensions, may be extended for a period of three years from the date of this act.

The amendment was agreed to.

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

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to grant extensions of time on oil and gas prospecting permits."

As in open executive session,

REPORT OF POSTAL NOMINATIONS

Mr. PHIPPS. From the Committee on Post Offices and Post Roads, I report several nominations for the Executive Calendar.

The VICE PRESIDENT. The nominations will be placed on the Executive Calendar.

NOMINATION OF HARRY E. HULL

Mr. KEYES. As in executive session, from the Committee on Immigration, I report favorably the nomination of Harry E. Hull, of Iowa, to be Commissioner General of Immigration. As the commissioner's term expires on the 21st day of the present month I ask unanimous consent that the nomination may be considered and confirmed at this time.

The VICE PRESIDENT. The nomination will be announced for the information of the Senate.

The Chief Clerk read as follows:

Harry E. Hull, of Iowa, to be Commissioner General of Immigration, Department of Labor.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

NOMINATION OF ETHELBERT STEWART

Mr. METCALF. As in executive session, from the Committee on Education and Labor, I report favorably the nomination of Ethelbert Stewart, of Illinois, to be Commissioner of Labor Statistics, Department of Labor, and ask unanimous consent for immediate consideration, as the term expires on the 21st day of the present month.

The VICE PRESIDENT. The nomination will be reported for the information of the Senate.

The CHIEF CLERK. Ethelbert Stewart, of Illinois, to be Commissioner of Labor Statistics, Department of Labor.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

RIKER OVERLAND SEAWAY

Mr. FRAZIER. As in legislative session, I submit a Senate resolution and ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The resolution will be read for the information of the Senate.

The Chief Clerk read the resolution (S. Res. 189), as follows:

Resolved, That Maj. Gen. Lytle Brown, Chief of Engineers, United States Army, be requested to immediately report to the Senate his opinion of the practicability, the merits, and the demerits of the proposed Riker overland seaway as a deep waterway for seagoing vessels from near St. Louis to the Gulf of Mexico, also as a means for flood control, for drainage of the Mississippi Valley, and the utilization of the latent power of the Mississippi River and improvement in the navigation thereof.

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

Mr. JONES. Mr. President, I am not going to object; but I wish to call attention to the fact that the resolution is really in a different form than is usual, in that it calls for an opinion from the Chief of Engineers. I understand, however, that the Chief of Engineers has examined this plan personally, so I shall not object to the adoption of the resolution.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

As in legislative session,

GASCONADE RIVER BRIDGE, MISSOURI

Mr. HAWES. Mr. President, there are two bridge bills on the calendar which I would like to have considered at this time. First, I ask unanimous consent for the immediate consideration of the bill (S. 581) granting the consent of Congress to the Jerome Bridge Co., a corporation, to maintain a bridge already constructed across the Gasconade River, near Jerome, Mo.

The VICE PRESIDENT. Is there objection?

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

Be it enacted, etc., That the consent of Congress is hereby granted to the Jerome Bridge Co., a corporation organized and existing under the laws of the State of Missouri, and its successors and assigns, to maintain and operate, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, a bridge and approaches thereto already constructed across the Gasconade River near the city of Jerome, Mo., which bridge is hereby declared to be a lawful structure to the same extent and in the same manner as if it had been constructed in accordance with the provisions of said act of March 23, 1906.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

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

MISSOURI RIVER BRIDGE AT ST. CHARLES, MO.

Mr. HAWES. I now ask unanimous consent for the immediate consideration of the bill (S. 2086) granting the consent of Congress to the Wabash Railway Co., to construct, maintain, and operate a railroad bridge across the Missouri River at or near St. Charles, Mo.

The VICE PRESIDENT. Is there objection?

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

Be it enacted, etc., That the consent of Congress is hereby granted to the Wabash Railway Co., its successors and assigns, to construct, maintain, and operate a railroad bridge and approaches thereto across the Missouri River, at a point suitable to the interests of navigation, at or near St. Charles, Mo., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to the Wabash Railway Co., its successors and assigns, and any party to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized to exercise the same as fully as though conferred herein directly upon such party.

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

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

NOMINATION OF RICHARD J. HOPKINS

The Senate, in open executive session, resumed the consideration of the nomination of Richard J. Hopkins to be United States district judge for the district of Kansas.

Mr. WALSH of Montana obtained the floor.

Mr. WATSON. Mr. President, is the Senator going to speak on the Kansas judgeship?

Mr. WALSH of Montana. Yes.

Mr. WATSON. I should like to inquire if the Senator will yield long enough to permit the Senator from Michigan [Mr. COUZENS], the chairman of the Committee on Interstate Commerce, to call up two nominations reported unanimously from that committee?

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

Mr. WALSH of Montana. I will yield if the Senator so desires.

Mr. COUZENS. The reason I suggested to the Senator from Indiana that action be taken now is that I thought undisputed cases on the Executive Calendar might be taken up before we found ourselves without a quorum. If it will interfere with

the Senator's program, I will wait; but if the Senator has no objection, I will ask that the nominations be considered.

Mr. WALSH of Montana. I desire to say that I do not expect to occupy the floor more than 20 minutes or a half an hour.

Mr. COUZENS. I do not wish to interfere with the Senator's program.

Mr. ALLEN. Mr. President, I wish to follow the Senator from Montana, and I hope that we may get this case out of the way before we shall find ourselves without a quorum.

Mr. WATSON. Of course, we have proceeded by unanimous consent to the consideration of several bills and resolutions and confirmations. It occurred to me that if we are going to continue that line of conduct, we ought to take up the calendar—of course, we are already on the calendar—but we ought to take up those confirmations that will not be objected to, for the purpose of disposing of them. Therefore I shall object to any other matter being taken up except the consideration of this judgeship, unless we are going to open the floodgates and let them all be considered at the present time.

My judgment is that we ought to go on and consider this judgeship until we shall have disposed of it.

Mr. WALSH of Montana. Mr. President, I voted against a favorable report on this nomination before the Committee on the Judiciary, and I feel compelled to vote against the confirmation, for the sole reason that to elevate Judge Hopkins to the Federal bench would be flagrantly to disregard the policy of the people of the State of Kansas as expressed in their constitution.

The provision of consequence here is as follows:

Said justices and judges—

Including the justices of the supreme court—

shall receive no fees or perquisites, nor hold any other office of profit or trust under the authority of the State or the United States, during the term of office for which said justices and judges shall be elected.

Mr. President, this is not a provision that is peculiar to the constitution of the State of Kansas. Something similar to it, if not identical with it, is found in the constitutions of at least 15 of the 48 States of the Union, sometimes as general as this is, sometimes expressed in more general language without specifying whether the office is to be State or Federal. Sometimes it is confined to the exclusion of holding any other office except a judicial office. A similar provision is found in the constitutions of the State of Alabama, the State of Arizona, the State of Arkansas, the State of California, the State of Idaho, the State of Indiana, the State of Michigan, the State of Nevada, the State of New Jersey, the State of North Dakota, the State of Washington, and the State of Wyoming.

There are four of these States which expressly declare that a man elected to the office of judge shall hold no office under the United States. It is so provided in the constitution of the State of Alabama, in the constitution of the State of Arkansas, in the constitution of the State of New Jersey, and in the constitution of one other State to which I do not find a ready reference.

Mr. President, this indicates a widespread conviction throughout the United States, and especially in the State of Kansas, that when a man is elected to the office of judge or justice he ought not to be eligible to election or appointment to any other office during the term for which he has been elected. So, Mr. President, there must be some reason, there must be some sound reason, why this conviction of the people is thus expressed in their various constitutions. I prefer to let the reasons for these provisions be expressed in the language of the courts rather than my own.

The State of Kansas has expressed itself in very positive terms upon this matter. In the case to which reference has been made, reported in the second volume of the Kansas reports—the case of the State ex rel. Watson *v.* Cobb—that court said (p. 52):

The object sought to be accomplished by this provision, is that our high judicial officers may be removed as far as possible from the temptation to use the power and influence of their positions and authority for their own advancement. To prevent their minds from being distracted from their legitimate duties by ambitious hopes and struggles for preferment, to raise them above those political and partisan contests so unbecoming the desired purity, impartiality, and calmness of the judicial character. Its effect is to prevent the acceptance of any other office by a judge or justice, the term of whose judicial office has not expired, and to render such acceptance void. The entire scope and object of this provision are so widely different from those applicable to members of the legislature or to executive offices as to clearly show by a comparison.

The State of Indiana has a similar provision; and the supreme court of that State said with respect to it as follows (Waldo *v.* Wallace, 12 Ind. 568):

A person who solicits and takes upon himself such an office ought to hold it during the term for which he was elected. The incentive so common to attain one office in order to make it a stepping-stone to another, and perhaps more desirable and lucrative office, which oftentimes leads to abuses of the trust, is dangerous and ought to be checked. Experience and integrity in the discharge of judicial functions ought to be secured, and persons elected to such an office prevented, as far as possible, from converting it into a vehicle for electioneering purposes.

And again they expressed themselves in a later opinion, in a case reported in the Ninetieth Volume of the Indiana Reports, as follows (Smith *v.* Moore, 90 Ind. 294):

It seems to me—

The court says—

that the question has not only been decided but that it has been correctly decided. The purpose of the framers of the constitution was to prevent one chosen to a judicial office from going before the people for any other than a judicial office.

The restriction in that State being only as respects judicial offices.

This was the view of this court in the first case which came before it, involving a discussion of the constitutional provision. It was said in that case of the person who received the highest number of votes for the office of sheriff: "Wallace, having voluntarily accepted a position under that law, was by that act, and by force of the constitutional provision, placed in a condition that his mind was left free to discharge judicial functions for the term for which he accepted without being disturbed by seeking preferment, for the time being, in either of the other departments."

And then they continue:

In speaking of a similar provision in the constitution of California it was said in People *v.* Sanderson (30 Calif. 160) that "this provision of the constitution, so far as it relates to the judicial department of the State, is, in our judgment, eminently wise. One of its objects seems to have been to confine judges to the performance of judicial duties; and another to secure them from entangling alliances with matters concerning which they may be called upon to sit in judgment; and another still to save them from the temptation to use their vantage ground of position and influence to gain for themselves positions and places from which judicial propriety should of itself induce them to refrain." The purpose of the constitution was to keep judicial officers, during the time they are serving as such, from becoming candidates for office, and the mischief intended to be prevented is that of a judge, holding in his hands personal interests and property rights with power to favor attorneys and parties, or to annoy and injure them, from entering a contest where such power might give him undue influence or lead to unjust favoritism and corrupt results.

I was hoping that the Senators from Kansas would give their attention to this part of the discussion.

The VICE PRESIDENT. Will the Senators from Kansas give their attention to the Senator from Montana?

Mr. WALSH of Montana. I was hoping that the Senators from Kansas would be good enough to give their attention to the reasons for these provisions which the courts have undertaken to set out. I read, I say, from an opinion of the Supreme Court of the State of Indiana:

One of its objects seems to have been to confine judges to the performance of judicial duties, and another to secure them from entangling alliances with matters concerning which they may be called upon to sit in judgment; and another still to save them from the temptation to use their vantage ground of position and influence to gain for themselves positions and places from which judicial propriety should of itself induce them to refrain.

So far, the court was quoting from the opinion of the Supreme Court of the State of California. Now the Indiana court continues:

The purpose of the constitution was to keep judicial officers, during the time they are serving as such, from becoming candidates for office, and the mischief intended to be prevented is that of a judge, holding in his hands personal interests and property rights with power to favor attorneys and parties, or to annoy and injure them, from entering a contest where such power might give him undue influence or lead to unjust favoritism and corrupt results. The evil against which the constitutional provision is directed is the entrance into the political contest by one who is at the time a judicial officer. The prohibition shuts the judicial officer from the political race. If he be such an officer, he can not be a contestant.

The Supreme Court of the State of Washington has spoken persuasively upon the same subject. I read from the opinion of that court in the case of State ex rel. Reynolds *v.* Howell, reported in the seventieth volume, at page 470, as follows:

> The framers of the constitution knew that judges would be called upon to sit in judgment upon cases of large public and private moment, and they also knew that the righteous cause is not always the popular one, and it was their purpose, in so far as it could be accomplished by the paramount law, to keep the judges out of politics. Both the letter and the spirit of the constitution are in harmony with this view. Its soundnes is illustrated by the fact that a judge can not qualify for an office, other than a judicial one, during his term by resignation or otherwise, and by the further fact that his term continues until his successor has been elected and has qualified.

Mr. JONES. Mr. President——

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

Mr. WALSH of Montana. I do.

Mr. JONES. I have sent for the constitution of Washington; but if the Senator has the exact language there I should be glad if he would read it.

Mr. WALSH of Montana. Yes; it is found on the preceding page, page 469:

> The judges of the supreme court and the judges of the superior court shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected.

Mr. JONES. I take it, however, that that refers entirely to State offices. It does not mention the United States in the prohibition, does it?

Mr. WALSH of Montana. It says, "to any other office." It does not specifically state, as does the constitution of Kansas, for instance, and the constitutions of three other States to which I have called attention, offices under the United States.

Mr. JONES. Yes; I noticed that.

Mr. WALSH of Montana. So that a man who is elected a judge in the State of Washington or an associate justice of the supreme court might have some ambition to become governor of that State, and might possibly use his position as judge for the purpose of promoting his aspirations to become a governor or to hold some other office to which he aspired.

Mr. President, if he were elected to the office of governor, a writ of quo warranto would lie against him to oust him from that office, because his election would be in violation of the constitution.

It is agreed upon all hands that neither the State of Kansas nor any other State can prescribe qualifications for Members of this body, or for any other office created by the Constitution of the United States. The United States Government prescribes its own qualifications for those who hold its offices. But that is entirely beside this question. The people of the State of Kansas have declared, by solemn provision in their constitution, that it is dangerous to the public interest, that it tends to lead to corrupation and favoritism and all manner of abuses, to allow the judges of their courts to be aspiring to any other office, either State or national.

If they do aspire to a State office, they can be reached, the constitution can be made effective as to them; the policy of the State of Kansas can be enforced in that particular instance. It seems to me it is a very poor answer to say, "But it can not be so far as a judge of the United States is concerned."

Mr. President, the evil is just as great, just as imminent, in the one case as it is in the other. I ask the distinguished junior Senator from Kansas if he subscribes to the doctrine to which I have adverted, as expressed in these constitutions, that it is an unwise thing to permit judges of the courts to be subject to the temptation to get into politics, or aspire to some other office?

Mr. ALLEN. Mr. President, I will say that in a general way I fully agree with what the Senator from Montana has said. I fully agree with the intent and purpose of the constitution when it was written with this inhibition within it. I only contend that it was not passed to meet a case of this sort, and I submit, in proof of that, that in Kansas this part of the constitution has been honored more often in the breach than in the observance.

This same provision of the constitution abode there when Brewer was taken from the supreme bench of Kansas and placed upon the Supreme Court of the United States, and no man has ever sought to cast any color of obloquy upon the services of Justice Brewer because this thing was in the Kansas constitution. But that did establish a custom in Kansas, so that when the next vacancy ocurred in the Federal judiciary, immediately there arose in the State court a man who desired to be promoted.

Mr. WALSH of Montana. Perhaps the Senator will agree that that is a custom more honored in the breach than in the observance.

Mr. ALLEN. I do so agree. So there have been appointments frequently in that way. It is the interpretation of every honest man in our State courts, and many in other places, that when this constitutional inhibition was written into the constitution, it was not meant to deny the President the right to promote a man from the State judicial service into the Federal service.

Mr. WALSH of Montana. The courts have not undertaken to make any such distinction as that, and, with respect to that, I want to follow the matter a little further.

Is the Senator agreed with me that it is a wise thing to endeavor to prevent the judges of the State of Kansas from aspiring to the governorship of that State?

Mr. ALLEN. I will agree with the Senator that the provision of the constitution to discourage the political activity of judges is a wise thing and prevails in Kansas.

Mr. WALSH of Montana. Let me go a little further. If it is a wise thing for the people of the State of Kansas to take away from judges the temptation to become candidates for governor of the State of Kansas, does the Senator think that the danger is any less if one of them should happen to become a candidate for United States Senator?

Mr. ALLEN. Let us hold to the technical point at issue.

Mr. WALSH of Montana. Oh, yes; but I want to test the technical point at issue by the reference I make to this other matter.

Mr. ALLEN. The technical point at issue is as to whether it is wise for a member of the State supreme court to accept the nomination of the President to a Federal court.

Mr. WALSH of Montana. I want to test that by reference to one who may have an ambition to become a United States Senator.

Mr. ALLEN. Will not the Senator state his hypothetical question again?

Mr. WALSH of Montana. The Senator from Kansas agrees with me that it is a wise thing for the people of the State of Kansas to take away from the judges of that State the temptation to become candidates for governor.

Mr. ALLEN. I think it is a wise thing for the State of Kansas to take away from the judges of the State the ability to run for any office within the State.

Mr. WALSH of Montana. If that is the case, and the Senator agrees with the argument and the reasoning of the court to which I have referred, that it is a wise thing to take away from the judges the temptation to run for the office of governor, does he think it would also be a wise thing to take away from them the ambition to run for United States Senator?

Mr. ALLEN. Of course, when we come to the question of wisdom, I do not think it enters into the case at all. They could not run for governor, they could not run for United States Senator——

Mr. WALSH of Montana. Why not? How would you stop them?

Mr. ALLEN. I am inclined to think I would differentiate touching that question in this way, if the Senator from Montana will permit me. Here is a place to which the President of the United States, of his own volition, seeks to promote from the State service an able judge. It is not a matter of the initiative of the judge; it is not a matter over which he has control further than that he can say no. But should he become an active candidate for an elective position, then he might drag into the practical politics of the situation the powers of judge. Certainly he could not involve those powers of a judge in relation to a matter of this kind. So it has been interpreted in Kansas from the beginning, from the day when Brewer took the office from the State bench, that this constitutional inhibition did not reach to this particular point.

Mr. WALSH of Montana. Mr. President, the Senator prefers to make a speech rather than answer my question.

Mr. ALLEN. One can not answer all questions "yes" or "no."

Mr. WALSH of Montana. No. I want to read again from this opinion of the Supreme Court of the State of Indiana:

> The purpose of the constitution was to keep judicial officers, during the time they are serving as such, from becoming candidates for office, and the mischief intended to be prevented is that of a judge, holding in his hands personal interests and property rights with power to favor

attorneys and parties or to annoy and injure them, from entering a contest where such power might give him undue influence or lead to unjust favoritism and corrupt results.

The Senator realizes that judges of courts are subject to the same infirmities that ordinary human beings are subject to, sometimes some of them aspire to higher duties, judicial or otherwise, and they are not immune from utilizing any political advantage they have or can possess to attain the end in view.

Mr. ALLEN. Mr. President, if the Senator will permit me, I am entirely familiar with that, and I am familiar with the fact that a great many men now upon the bench have used all the powers they possess, and I am also familiar with the fact, with which the Senator from Montana may not be familiar, that the fight upon Justice Hopkins is a fight engineered by the most powerful influence in judge making that this country knows to-day.

Mr. WALSH of Montana. I do not know anything about it. I have no information about the matter, and I desire to add that other objections than those which I have endeavored to expound have been urged against this appointment. With respect to them, I express no opinion whatever; I know nothing about them. This objection seemed to me entirely sufficient to justify me, indeed, to require me, to oppose this nomination, so I have not concerned myself with the other charges.

Regardless of what opposition there may be, I can not believe that it would be a wise thing or an excusable thing for this body at this time to disregard this very wise provision for keeping judges out of politics. I can see no difference at all.

Some of the constitutional provisions make a difference. They allow judges to aspire to other judicial positions. Many of them do not, and the constitution of the State of Kansas has been explicit in providing that a judge shall not hold any other office, either under the State or under the United States.

Mr. ALLEN. Mr. President, may I ask the Senator a question?

Mr. WALSH of Montana. Certainly.

Mr. ALLEN. I am very much interested in the Senator's argument, and I think it is an excellent argument, but would not the Senator regard it as having some bearing upon this case that customarily, from the beginning, we have ignored this provision, so far as it respects promotion to the Federal judiciary?

Mr. WALSH of Montana. In my judgment, it does not affect the policy of the provision at all that it has been ignored. The people have put it in their constitution, and they have left it in their constitution. They have not undertaken to change it. I take it, therefore, that it is still the solemn conviction of the people of the State of Kansas that it is dangerous to allow these judges to be aspiring to higher positions, notwithstanding the fact that some distinguished men from that State have disregarded the provision.

Mr. ALLEN. It is my conviction, Mr. President, that if the people of Kansas were under this solemn conviction it would not have been necessary to have had this point raised by eminent Senators here, who are not in touch with the convictions of Kansas. Kansas would have been here storming at the gates of the Senate demanding that their constitutional rights be not trodden under foot.

Mr. WALSH of Montana. The policy of a State is expressed in its constitution and its laws, so I am bound to assume that this is a conviction of the people of the State of Kansas.

However that may be, I am calling attention to the fact that it is a provision not peculiar to the State of Kansas but is found in the constitutions of nearly half, if not quite half, of the States of the Union, showing the conviction to be general, and not local at all.

Mr. ALLEN. But in some of the States I believe the Senator did discover that the constitution made an exception in reference to the Federal judiciary; they did not prohibit one holding a State office from becoming a member of the Federal judiciary.

Mr. WALSH of Montana. In some States they made an exception with respect to judicial office anywhere, either under the United States or under the State. They thought that would be safe enough. But the State of Kansas, along with various other States, did not choose to do so. They thought that there were some judges who would go into politics to get themselves into a higher judicial office, just the same as some go into politics to get themselves into higher executive or administrative or legislative offices.

I dare say the experience of most of us will enable us to refer to instances in which that opinion seems to have been justified. We remember perfectly well that only a few years ago our esteemed colleague the senior Senator from Nevada [Mr. PITTMAN] was opposed for the nomination in his State by a justice of the Supreme Court of Nevada, who took occasion to write letters around to every lawyer in the State asking how he stood on the question of the nomination of a Democratic candidate for Senator from the State of Nevada. What would a lawyer do under those circumstances?

As I said, judges are not immune from aspiring to higher positions, judicial or otherwise, and some of them will abuse the position which they hold for the purpose of attaining their end. I do not mean to say that that is the case with Judge Hopkins. I mean to say that we ought to do whatever we can in this body to uphold that policy and to remove the temptation from our judges. I merely wish to add, as I said previously, that I know nothing at all about the other charges made against this nominee. I have given no attention to them. My vote is placed upon the ground which I have elucidated.

And now, Mr. President, I want to add that in this time when disregard for law is arousing the anxiety of every man who has given any attention to the subject at all, when the whole country is appealed to to aid in the enforcement of the law and to uphold it, I think it would be singularly unfortunate for the Senate of the United States to set at naught the salutary provision of the constitution of the State of Kansas, because, forsooth, the two Senators from that State, neither of whom is a lawyer and both of whom, of course, like the rest of us, have figured in the politics of their State, desire that the appointment shall be confirmed.

There must be many, many eminent lawyers in the State of Kansas who would be glad to be honored by the nomination and who would be readily confirmed by this body. The State of Kansas certainly can not be so barren of legal talent as that we must confirm this nomination or the State go without proper judicial organization. There must be an abundance of material in the State. Something was said here the other day about how destitute of legal talent was the middle district of the State of Pennsylvania. So barren was it that they would not be able to administer justice in that district if we did not confirm Judge Watson.

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

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

Mr. WALSH of Montana. I yield.

Mr. ALLEN. I merely want to say that the Senator from Montana is making precisely the argument which the lawyers of the corporations, headed by the leader of the Insull interests in Kansas, have made to us and to the Attorney General and to the President from the beginning. They will take any lawyer in Kansas in preference to this man, and they sneer at the idea that we should be so barren of material for the office that we must take from the State court a man whose wisdom they in particular challenge, because they do not want to have this particular man upon the bench.

Mr. WALSH of Montana. It is very rarely that I am found in harmony with any views expressed by the Insull interests.

Mr. ALLEN. The Senator is to-day.

Mr. WALSH of Montana. I suppose it could happen that they would be right sometimes. However, I merely desire to say that I warn the Senate of the United States now that if this nomination be confirmed in the face of the plain provision of the law relating to the matter under discussion we are doing more to bring the law into disrespect and to encourage disregard of it than any other thing that I now think of that could be done. Bear in mind that the man in the street will read this provision and will realize that the constitution of the State of Kansas provides that no justice of their court shall hold any other office, either State or Federal, during the term for which he is elected. He will understand that the Senate of the United States, notwithstanding, has confirmed the appointment of this man after the President of the United States has named him for the position. He will not be able to appreciate very keenly the technical proposition that, notwithstanding this provision of the constitution of the State of Kansas, we can not keep this man out of the position of Federal judge. He will ask what is the reason for that kind of a provision in the constitution of the State of Kansas, and, of course, he will be answered that it is to prevent judges of that court from scheming around to get elevated to some other position, and he will understand perfectly well that part of it.

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

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

Mr. WALSH of Montana. I yield.

Mr. JONES. I appreciate what the Senator suggests with reference to the man in the street. I think he is very correct in that matter. But does the Senator contend that this provision of the constitution of Kansas is legally binding or is a law in the

sense of law for the President of the United States in the matter of filling a Federal position?

Mr. WALSH of Montana. No; I have undertaken to say that if we should confirm the appointment of Judge Hopkins and any kind of a proceeding were instituted to question his title to that office, and an appeal were made to this provision, it would have to be said that it is of no effect. There is no doubt about that.

Mr. JONES. I was out of the Chamber temporarily and did not hear what the Senator might have said with reference to that point.

Mr. WALSH of Montana. There is no doubt about it. But my contention is that that does not affect the situation at all. We are called upon to say whether we will confirm Judge Hopkins for this position in the face of that provision which expresses to my mind a sound, wise, and salutary public policy.

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

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

Mr. WALSH of Montana. I yield.

Mr. TYDINGS. Notwithstanding, as the Senator said, that we have the power to confirm Judge Hopkins in a perfectly legal manner, if we do so, will we not be violating the constitution of the State of Kansas?

Mr. WALSH of Montana. I am not clear about that. I do not care to express an opinion. We are clearly violating the policy of the people of the State of Kansas, as expressed in their constitution.

The junior Senator from Kansas [Mr. ALLEN] a little while ago remarked that I had aligned myself at this particular moment with the Insull interests and was making the same argument that they had made. Of course that may be true. It has also been urged here that Judge Hopkins is a very strong prohibitionist and that he is being fought by the people who are opposed to prohibition. The Senator probably knows that I have been a pretty consistent supporter of the prohibition policy, at least as long as I have been in this body; but that is no reason why I should disregard the arguments to which I have adverted here, and I do not think that it outweighs them at all, either the one or the other. I feel impelled, therefore, as I said, to vote against the confirmation.

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

Mr. WALSH of Montana. Certainly.

Mr. FLETCHER. I understand, of course, the Senator takes the position that Judge Hopkins can not hold another office during the term he is serving as judge of the Supreme Court of Kansas. As a matter of course he will not hold another office. He will resign as judge of the State court. The question arises in my mind whether he is eligible in the Senator's view to appointment or election to any other office while he is judge. Is he ineligible to another office during the term for which he was elected judge?

Mr. WALSH of Montana. I invite the attention of the Senator to the language of the Kansas constitution. It provides that he shall hold no other office during the term for which he is elected, and the Supreme Court of Kansas has said that even though he resigns he is ineligible to appointment or election to another office during the term for which he was elected.

Mr. ALLEN. Mr. President, of course I would not assume the ability to discuss the technical question which has been covered so thoroughly by the Senator from Montana [Mr. WALSH]. I am comforted by my conviction that when the people of Kansas wrote this inhibition many years ago in the early days of the history of the State they did not mean that the President of the United States could not have the privilege of giving to the Nation the benefit of judicial timber which might develop and grow in the State courts of Kansas. Therefore, since it is generally admitted that there is no constitutional inhibition against Judge Hopkins being able to accept the office, and since the concern of the Senator from Montana and the Senator from Wisconsin [Mr. BLAINE] is over the matter of the Kansas constitution, and since I have to answer to the people of Kansas as to the manner in which we march in obedience to that constitution, I am perfectly happy and comfortable in the prospects of Justice Hopkins's confirmation.

I can not cope with technical legal discussion. I am always hopelessly at sea when lawyers begin to discuss constitutional questions. I can not agree with them out of an utter lack of understanding. They seldom agree amongst themselves unless there is some motive which binds them together, because there is such a wide latitude for judicial interpretation.

In reference to the candidacy of Justice Hopkins, when it was first announced the first objector who organized the corporation lawyers of the State against him was the representative of Mr. Insull's interests in Kansas, and they have been after him every hour from the day his candidacy was announced by his friends up until this hour.

I have no objection to rereferring the nomination to the Committee on the Judiciary if the Senator from Nebraska [Mr. NORRIS] and those upon that committee who have been studying the question with open minds desire that the committee shall have more time, because I am perfectly confident that Justice Hopkins will meet every objection which has been urged here. Therefore if that be the desire of the Senator from Nebraska [Mr. NORRIS] the chairman of the committee, or of the Senator from Idaho [Mr. BORAH] who is at the head of the subcommittee which considered the nomination, I very cheerfully acquiesce in it, expressing only the understanding, since we have waited four months for confirmation, that the hearings shall proceed and that we be permitted to have a final vote upon the matter at the earliest possible moment.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

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

Mr. WALSH of Montana. I yield.

Mr. LA FOLLETTE. I am not a member of the Judiciary Committee, but I understand that a number of matters which have come up on the floor this afternoon were not considered by it. Am I correctly informed in that regard?

Mr. ALLEN. I would have to ask the Senator from Nebraska, the chairman of the Judiciary Committee. He was out of the Chamber when I made my statement a moment ago, but has just reentered the Chamber. I will state that much of this material which sounds so serious is old stuff in Kansas. It is a continuation of the battle on the part of three or four labor leaders against Justice Hopkins. Since it first broke out he has gone through six campaigns, he has been six times before the people of the State, three times in a primary campaign, and three times in a general election, and he has been successful in all six campaigns.

This is not new material and so as it came rolling into my office I turned it over to the Committee on the Judiciary. It is not as serious as it sounds, because parts of it are the pure imaginings of a violent enemy in the person of Mr. Howe.

I remember Mr. Howe very well. I met him when I was governor of my State. The coal strike of 1919 was on and I had gone into the bituminous mining district of Kansas around Pittsburg to urge the miners to go back to work in order that we might not suffer in that severest period of the winter through lack of coal. In one meeting which I addressed at Mulberry Mr. Howe rose and interrupted me. I asked what his business was. He said, "I am a miner." I replied, "I wish you would locate yourself just a little more clearly." He said, "I am a miner who has been on strike for 25 years." He is still on that strike.

Mr. Howe was a violent partisan and communist. So violent were his denunciations that in 1920 a representative of the Federal Government came to me for advice as to the possibility of having him deported. Such a movement would have been taken against my advise, because the man was so obvious in what he was that he had no following, and if we should have placed the crown of a martyr upon him, some of those things might have been believed.

Mr. LA FOLLETTE. Mr. President, will the Senator from Kansas yield to me for the purpose of addressing a question to the Senator from Nebraska [Mr. NORRIS]?

Mr. ALLEN. I am very glad to do so.

Mr LA FOLLETTE. I made the statement a while ago when the Senator from Nebraska was momentarily off the floor that I had been advised that many of the things which have come up in the course of the debate to-day were not considered by the Committee on the Judiciary when the appointment was before it. I would like to ask the Senator from Nebraska whether I have been correctly informed in that regard.

Mr. NORRIS. Mr. President, does the Senator from Kansas desire me to answer?

Mr. ALLEN. I would be very glad to have the Senator do so; and, if I may add to what the Senator from Wisconsin said, I also stated that if it was the feeling on the part of the Senator from Nebraska, or of the Senator from Idaho, who is at the head of the subcommittee which considered the nomination, that more time is needed for an examination of the situation and of the so-called new material, I would be very glad indeed to withdraw any objection to a resubmission of the case to the committee.

Mr. NORRIS. If the Senator wishes me to answer the question of the Senator from Wisconsin, it will take just a few moments to do so.

Mr. ALLEN. I shall be very glad to yield the floor. I shall undertake to obtain the floor again when the Senator has concluded.

Mr. NORRIS. Mr. President, I can not fully answer the question. I wish to tell the Senate, however, just what the Judiciary Committee did in this case. This nomination came before the Committee on the Judiciary in the regular way a short time before the November recess. It was referred in the regular way by me to a subcommittee. I appointed the Senator from Idaho [Mr. BORAH] as chairman of that committee at the same time, I think, that the Watson case was pending, although the Watson case had been previously before the committee. Anyway, I referred this nomination to the same subcommittee.

Before the subcommittee in the Hopkins case no testimony was taken down, though it had some hearings. I understand the subcommittee made a favorable report to the full committee just before we took a recess. The committee did not have time amongst themselves to discuss the nomination very much, as Senators will remember who were there, if we were to report before the recess. So, by general consent, we reported the nomination, with the understanding that any member of the committee, after further consideration, if he felt like doing so, should be perfectly free to oppose the nomination on the floor of the Senate.

I shall have to explain to the Senator from Kansas the general practice that obtains in the Committee on the Judiciary, especially as affecting judicial appointments. It is a rule of the committee that even though there be no objection, even though both Senators from the State where the appointment is made favor a nomination for a judgeship, nevertheless, the committee will refer the nomination to a subcommittee to invest gate it. That rule does not apply to other nominations, but it does apply to judicial nominations. I think there is no written rule of the committee to that effect, but it has long been the practice of the Judiciary Committee to take that course. I have refused—although there have been times when I have been very severely criticized near the close of a session because I have refused—to consent to a violation of that rule. It has always seemed to me that the most important questions that could come before us in the way of nominations are judicial appointments, the appointees holding office for life. So I have insisted on having such nominations referred to a subcommittee ever since I have been chairman of the committee. My predecessors, so far as I know, have pursued the same course. When any communications on either side come to the chairman of the Judiciary Committee in relation to any nomination that has been referred to a subcommittee I always turn them over to the chairman of the subcommittee. I pursued that course in this case. If I have the time I glance over such communications hurriedly, as I desire to keep advised as nearly as I can in a general way as to what is pending before the committee. If I have the time, I go into the matter in more detail. Nevertheless, without expressing any opinion myself, I refer to the chairman of the subcommittee whatever material may come to me. I did that in this case. I keep in touch with the chairman of the subcommittee. In this case I talked with the Senator from Idaho a number of times. A great deal of the material in this case never came before the Judiciary Committee, and I think much of it never came before the subcommittee; and yet I myself may, without knowing it, have referred some of these very matters to the subcommittee. The information came after the nomination had been reported, after it had been placed on the Executive Calendar of the Senate. In a general way, I tried to inform myself as to just what the claims and the charges and the defenses were.

Some of this material, some of the objections, I have never heard until to-day. That is true as to one objection urged by the Senator from Wisconsin, namely, the charge made by union labor, although it may be that that very matter had passed through my hands. However, I had no recollection of it until it was referred to here.

Mr. BLAINE. Mr. President——

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

Mr. NORRIS. I yield.

Mr. BLAINE. The letter and telegram which I read never passed through the hands of the chairman of the committee, and these protests and letters are found only in the records of the Attorney General of the United States.

Mr. NORRIS. Anyway, I never saw them.

Mr. President, I may be entirely wrong, but I confess I became somewhat suspicious as to some of the objections that were raised because of an investigation I had made as to certain of the charges. I now wish to give an illustration of one of them.

I am not questioning the good faith of the Senators who make the charges, by any means; with very much, indeed, with nearly all of what the Senator from Maryland [Mr. TYDINGS] said about the judiciary I am most heartily in accord; but it will be remembered that he referred to-day to a certain case where, although the attorney general of Kansas had promised immunity to a man who had given information about a violation of the prohibition law, the prosecuting attorney of the county where the case arose prosecuted the man who had furnished the information, and he was found guilty. The attorney general asked that the case be dismissed on the ground that he had promised that man immunity at the time he gave him the information about a certain still, and he carried the case to the supreme court; he really defended the informer; and the Supreme Court of Kansas held that the attorney general had authority to grant immunity; that he had granted it in that case; that he had a right to ask that the case be dismissed; and that the court below erred in not dismissing it. That was the opinion of the Supreme Court of Kansas, written by Judge Hopkins and participated in by all the members of the court, except one, who did not participate in the case at all.

I read that opinion, Mr. President, and I wish to say as a lawyer and as a citizen it seems to me that no one, after reading it, can hold any reason in his heart or in his brain against Judge Hopkins for rendering it. The court held that under the law of Kansas—and they discussed the common law at considerable length, in the opinion—the attorney general had a right to do what he did, and the court sustained him in his action. In other words, the court held that under the laws of Kansas the attorney general, even if the county attorney took the other view of it, nevertheless, having made an agreement with an informer that he would grant him immunity, had a right to carry out that agreement. The court sustained him in that position. That was the opinion of the Supreme Court of Kansas.

Mr. TYDINGS. Mr. President——

Mr. NORRIS. I yield to the Senator from Maryland.

Mr. TYDINGS. I have a great deal of respect for anything the Senator from Nebraska may say, particularly in reference to the judiciary; but may I point out to the Senator that the immunity granted by the attorney general was granted before the crime was committed.

Mr. NORRIS. It is hardly right, in my judgment, to say—although the statement is partially correct—that the opinion of Judge Hopkins for the supreme court carries out that view. The opinion itself is the only information I have with regard to it. In the case referred to a man came to the attorney general and told him certain things. Hopkins knew nothing about that; he was on the supreme bench at the time. However, because Hopkins had been attorney general, some Senators have gained the impression that the promise of immunity was made by Hopkins. He had nothing whatever to do with it; he had no more to do with it than I or you, Mr. President. A man came to the then attorney general—I do not know who he was—and told him about another man who was violating the prohibition law. The attorney general said, "When the still is in operation, report to me"; and he made an agreement with him that he would give him immunity. The informer came back later and said to the attorney general, "The still is in operation right now."

Then the attorney general tried to get in communication with the county attorney of the county where the still was operated. He could not get him on the telephone. Then he tried to get in touch with the sheriff of that county, but he could not reach him. So he got in touch with the Federal prohibition-enforcement officer, and told him about it. The prohibition-enforcement officer went into that county to find out whether the still was in operation and to take possession of it. The Federal prohibition officer did get in touch with the sheriff of the county, and together they made a raid and found the still in operation, as the informer had stated. They arrested the man who was operating the still, who plead guilty, and was sentenced. When they caught him he said that the informer was his partner. So the county attorney had the informer arrested; he was tried and convicted. Then the attorney general intervened and asked that the case be dismissed. It was not dismissed, but was carried to the Supreme Court of Kansas, and that court held—and that is where Hopkins came in, as a member of the supreme court—that the attorney general had a right to promise immunity; that it was his duty to keep the pledge and the agreement which he had made.

Mr. TYDINGS. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Maryland?

Mr. NORRIS. I yield.

Mr. TYDINGS. I think the Senator has correctly stated the case, but there is another element which ought to be stated in

connection with it. The informer—I can not recall his name for the moment—went into partnership with a man named Brown for the manufacture of liquor, at a time when Brown was not engaged in that kind of business. The informer went to Brown, however, and insisted that the two of them enter upon the manufacture of liquor. They agreed to do that, and a part of the apparatus was bought by the informer and the two of them together built the still.

So at the time when the informer went to Brown, who to all intents and purposes at that time was not committing any crime, the informer put the idea into the innocent man's mind to go into the business, when, perhaps, so far as we know, he was not thinking of it. Then after he had done that he informed on him. The point I wish to bring out is this: I do not know of another case—there may be thousands of them, but I do not know of another case in American jurisprudence—where immunity was promised to an informer before a crime was conceived or committed.

Mr. NORRIS. I do not disagree with the Senator, assuming those to be the facts. I did not get quite that idea from the opinion, but what the Senator says may be true. It does not, however, appear in the opinion.

Mr. TYDINGS. No; but it is true.

Mr. NORRIS. Assuming that to be true, if it is true, then the attorney general, if he knew of the circumstances, in my judgment did absolutely wrong in promising the informer immunity.

Mr. TYDINGS. Absolutely.

Mr. NORRIS. I am not defending the attorney general——

Mr. TYDINGS. I understand that.

Mr. NORRIS. But he did promise the informer immunity. Under the law of Kansas he had a right to promise him immunity, and, having promised him immunity, the attorney general stood by his promise and insisted on making it good. The supreme court said that he ought to do that.

Mr. WALSH of Montana. Mr. President——

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

Mr. NORRIS. I will yield in just a moment. Regardless of the question as to whether the informer ought to have been promised immunity, I submit that that question was not before Hopkins; it was not before the supreme court. That tribunal simply held that under the law the attorney general had a right to make such a promise, that he had made it, and therefore the case ought to be dismissed.

I now yield to the Senator from Montana.

Mr. WALSH of Montana. Mr. President, I read the opinion hurriedly; and I ask the Senator, for information, whether the court based its conclusions upon some peculiar statute of the State of Kansas or whether, having canvassed, as the Senator says, the common-law rule about the matter, it based it upon the common law?

Mr. NORRIS. They did both, Mr. President. They cite, at considerable length, a whole lot of precedents for their opinion from various States.

Mr. WALSH of Montana. I wanted to follow that up for a moment, if I might.

It does not seem to me to affect this situation, so far as the legal question is concerned, whether the promise of immunity was made before the crime was committed or after the crime was committed. The moral aspect of it might be affected, and doubtless would be; but the legal aspect would not make any difference, as I view the legal question.

Here is a man who confessedly committed a crime. He was convicted of that crime, and an appeal was taken to the supreme court from the conviction. He pleaded as a defense that the attorney general had promised him immunity, and the supreme court held that that was good. Now, my idea about the matter is that that never constituted a defense for crime, but it was a good reason for executive clemency. It seems to me that in accordance with legal principles the judgment should have been affirmed by the supreme court and then an appeal should have been taken to the governor of the State for executive clemency. That is the way these things are ordinarily done.

Mr. LA FOLLETTE. Mr. President——

Mr. WALSH of Montana. It is not an uncommon thing at all for a prosecuting attorney to promise immunity to an informer or a coconspirator; and then, if an indictment is returned against him, the county attorney will go and dismiss that indictment, and he takes all the responsibility. But if the man is actually put upon trial, and he is actually convicted by a jury, and then he appeals to the supreme court, it is a startling thing to me that it is a defense to that conviction that the attorney general promised him immunity. That, as I say, would be a good reason for exercising executive clemency; but I shall have to unlearn the fundamentals of the criminal law as I have learned them if that is a legal defense.

Mr. NORRIS. I will say that as I remember this decision there will be no conflict between the decision and the proposition the Senator has just laid down.

Mr. LA FOLLETTE. Mr. President——

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

Mr. NORRIS. I do.

Mr. LA FOLLETTE. I understood that the attorney general moved to nol-pros the case against Finch, and the court refused to enter the order, and the opinion reversed the case on error.

Mr. WALSH of Montana. I did not understand the Senator.

Mr. LA FOLLETTE. I understood, from a hasty reading of the decision, that the attorney general or his assistant moved to nol-pros the case against Finch, the informer——

Mr. WALSH of Montana. I understood that perfectly well. That is to say, that was regarded by the trial court as no reason at all for not proceeding with the trial.

Mr. ALLEN. Mr. President——

Mr. WALSH of Montana. The supreme court held that it was a reason; in other words, that that was a defense.

Mr. NORRIS. Let me give the Senators my idea of just what happened.

When this informer was under arrest and before the court, before he was convicted, the attorney general asked that the case be dismissed. That was denied, and that is what he took to the supreme court.

Mr. WALSH of Montana. Of course, he could only ask because that was a defense to the crime.

Mr. NORRIS. He only asked it because he had promised to do that. He had promised immunity, and that was the way to give it to the man. He asked that the case be dismissed before the man was convicted, but the lower court would not do it. The county attorney had charge. The supreme court held that under the laws of Kansas the attorney general could go into any county in the State in any prosecution for any criminal act and take full charge of the case, notwithstanding the objection of the county attorney, and that when the attorney general asked the court to dismiss this case his motion ought to have been sustained by the lower court. That is what the supreme court passed on, and Judge Hopkins wrote the opinion.

Senators, I wish every Member would read this opinion, and bear in mind when you are reading it that Hopkins was not the attorney general. Hopkins did not promise immunity. It was another man who did it. The attorney general did it. Hopkins was a member of the supreme court. All the judges participating in the decision reached one conclusion—and Hopkins was only the mouthpiece of the supreme court—in which they held that under the laws of Kansas the attorney general had a right to go into that court and had a right to ask that a case be dismissed, and that it was the duty of the judge to dismiss it. That would not be true in my State.

Mr. WATSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Nebraska yield to the Senator from Indiana?

Mr. NORRIS. I do.

Mr. WATSON. Did the case go up on that point?

Mr. NORRIS. Yes.

Mr. WATSON. It went up on that point?

Mr. NORRIS. That was the only point in it—whether the attorney general could do that—and the supreme court held that he could.

Here is the opinion, quite a lengthy opinion. I refer to this because I wanted to state to the Senate one of the things that make me suspicious against some of these other objections. Here is something that is so plain, that is so clear, that regardless of what you may think about promising immunity—I am not defending that under any circumstances; maybe it is right and maybe it is wrong; I do not know enough about it to have an opinion—the only question was, Did the attorney general have the right to do it? The supreme court held that he did, and you can not read that opinion and reach any other conclusion. It is as clear as anything possibly can be.

So disassociate this question of promising immunity. Hopkins was not to blame for it. It is not for us to say whether it was right or wrong. The supreme court under the law decided that he had the right; and now are we going to reject a man on that account, even though we thought the opinion was wrong? I think if we read the opinion we will conclude that the opinion is right; but, even if we did not agree with it, that is only a statement that the supreme court have decided one thing and we think something else. That happens every day with almost all of us; but with the supreme court's opinion

rendered fairly, as I assume it was, after a full discussion, with all the judges uniting, it seemed to me, Senators, that the objectors to Hopkins were going away afield to find something wrong with the man.

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

Mr. NORRIS. In just a moment I will.

I could not help but feel that this case is an instance where some great interest is involved, where some fellows, perhaps concealed behind the scenes, are anxious to find something against this man. They have searched his life, probably; and as far as I know this matter never was brought where it ought to have been brought, before the Judiciary Committee, although I can not find much fault with it, because the case was not there long. I am not really finding fault with that. When I examined this matter, and reached the conclusion that seemed to me to be inevitable—that Judge Hopkins was right—that caused me to discredit to some extent some of the other things. Perhaps I ought not to have done that.

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

Mr. NORRIS. First I will yield to the Senator from Maryland, who desired to interrupt me a moment ago. Then I will yield to the Senator from Indiana.

Mr. WATSON. Very well.

Mr. TYDINGS. Mr. President, let me call the attention of the Senator and others who are interested to the fact that in this particular case the attorney general had promised immunity before the crime had been conceived of by one of the parties, and certainly before it was committed.

Mr. NORRIS. Where does the Senator get that information?

Mr. TYDINGS. I do not think the Senators from Kansas will question that at all.

Mr. NORRIS. It is not in the opinion. It is not in that record.

Mr. TYDINGS. No; that is true; but I put it in the RECORD this morning, and I have reasonably verified it by communicating with people in Kansas, and I do not think anyone will gainsay those facts.

Mr. NORRIS. I will say to the Senator that for the sake of the argument I have assumed that all that is true. I do not think it affects the merits of the matter that we are to pass on.

Mr. TYDINGS. Now I want to call attention to the language which Judge Hopkins uses in writing this opinion—in other words, giving expression to the decision of the court in his own particular style—and I want those who listen to me to bear in mind that the immunity in this case was given to the informer before the crime was committed or before it was known in the mind of the other party to the crime. All of this happened before the murder or the arson or the liquor making was even conceived of; and, in view of that, here is what Judge Hopkins said——

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

Mr. TYDINGS. Let me finish first:

> Organized society always has the right to invade the domain of personal liberty when the safety or general improvement of the community is at stake.

I accept that as a very profound statement; but when I view it in the light of the facts that the element of personal liberty, which was violated in this case, was in going to a man who to all intents and purposes had no idea of committing a crime, and having an agent of the attorney general's office make him a proposition to commit a crime, and then after the crime was committed to inform on him, I think that Judge Hopkins, in possession of those facts, shows a lack of judicial balance in forming this opinion.

Mr. NORRIS. Mr. President——

Mr. TYDINGS. May I continue?

Mr. NORRIS. All right. I should like to answer that proposition. However, I think I can remember it while the Senator makes another one.

Mr. TYDINGS. I shall be glad to give the Senator the opportunity.

Mr. NORRIS. I think the Senator assumes too much, to begin with.

Mr. CAPPER. Mr. President——

Mr. NORRIS. I am not convinced that the Supreme Court of Kansas had all these facts before them.

Mr. TYDINGS. I will prove it to the Senator in just a minute.

Mr. NORRIS. But, if the Senator will just let me proceed——

Mr. TYDINGS. Yes.

Mr. NORRIS. Even if they had, it was not for them to say in that case whether the attorney general did right or did wrong in granting immunity.

Let me say how I think I would feel and how I think you would feel, if you were a judge, and here was the law officer of the State who, they held, had authority to make a certain agreement. He made it. That is conceded. He made it. He said to this man, "I give you immunity." And they held under the law, and nobody can dispute that, that he had a right to make it. Now, he had made that agreement; and then another officer of the State, the county attorney, refused to abide by that decision.

If I had granted immunity to a man to furnish me evidence, I want to tell you that if I could not make good on granting it I would want to go to jail in his stead. I do not see how any honorable man could for a moment fail to do anything in his power to prevent that man from being punished because he had made an agreement with me and I had gotten him into that trouble.

There is another thing that the Senator assumes that I think he can not show is the fact. He says this man had no intention of committing a crime; that the agent of the attorney general went to him and induced him to commit a crime. If that were true, that would be a terrible offense——

Mr. GLENN. Mr. President, will the Senator yield to me for a moment?

Mr. NORRIS. Not in the middle of a sentence. Just let me get through with this.

This man set up a still and operated it. Even if somebody induced him to do it, that is no defense for him. He intended to commit a crime; he plead guilty to committing a crime; and if all the ministers in his county had been to him secretly and put up a job on him and said, "Commit a crime," and he had committed it he would be liable just the same. It is no defense to him for his part of the crime. It would be a defense as to the amount of punishment that the judge ought to inflict; but it is no defense to him when he has violated a law to say, "Somebody else induced me to do it." I do not see that that is a defense for him.

Mr. TYDINGS and Mr. GLENN addressed the Chair.

The VICE PRESIDENT. Does the Senator from Nebraska yield; and if so, to whom?

Mr. NORRIS. I yield first to the Senator from Maryland.

Mr. TYDINGS. First I want to show the Senator that the judges, and particularly Judge Hopkins, had before them all the evidence taken in the case, because, reading from Judge Hopkins's own words, I read this:

> The facts were substantially these:

And then he reviews the dates, how the arrangement was made, and so forth; and after quite a number of lines, some 20 or 30 lines, of evidence in his opinion, he says:

> It would serve no useful purpose to detail the evidence.

So I think that proves, together with the other facts, that all of the evidence was before him.

If the Senator will indulge me just a little further, let me say that these were the facts: That Brown, the man who was arrested, was approached by Galen Finch. Finch said, "Brown, we can make some money by operating a still and selling liquor. Will you go in partners with me?" Brown said, "Yes; but I haven't the equipment." Finch said, "I will help you to get it," and he bought part of the equipment and helped to build the still.

The point I wish to make is that Brown must be presumed, before Finch approached him, with at least not having the idea in mind until Finch suggested it to him, so that at that time Finch had, according to Judge Hopkins's own statement, been given immunity by the attorney general.

Mr. NORRIS. There is no dispute about the fact that he had been given immunity.

Mr. TYDINGS. So the question came up to Judge Hopkins in this form, Can an attorney general give immunity to a man before a crime is committed, namely, "If you commit a crime with so and so, I will give you immunity"? The judge certainly had that before him when he wrote the opinion.

I want to conclude, if the Senator will indulge me one moment more, by reading further from the paragraph in question:

> This State, having long since learned that the use of alcohol as a beverage is a great physical evil and a standing menace to her people, that beverage alcohol destroys physical and mental vitality and resistance to disease, that it increases poverty and ignorance, that it stimulates vice and crime, determined to exercise its inherent right to prohibit it. Such right is the exercise of police power, a power which the State uses for the protection of society as a whole. The argument that the prohibition law interferes with individual liberty and that the individual has never had his day in court is answered by the decisions of the highest courts, that the individual has no inherent right to do anything which interferes with the general welfare.

The framework and plan of our intoxicating-liquor law contemplates a central law-enforcement head. That head is the attorney general. Under that law he is given authority and power not ordinarily given in other laws.

Then he quotes the law. The point I make is that Judge Hopkins in those two paragraphs shows, in effect, that the attorney general of the State has the right to give immunity to one taking part in the commission of a crime before any crime is committed.

Mr. NORRIS. I do not gather that from his opinion.

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

Mr. NORRIS. I yield.

Mr. GLENN. I wonder if it is not correct that under the facts outlined by the Senator from Maryland it was a pure case of procurement, and if that evidence had been introduced the principal offender would not have been convicted?

Mr. NORRIS. I do not get any such idea from the opinion. I have never read the evidence in the case. To my mind, that is immaterial, however. The Supreme Court of Kansas held that the attorney general had a right to do what he was trying to do, and they did not hold anything else. They have an abundance of authority here. Let me read the syllabus. The opinion is written by Judge Hopkins, but, as all lawyers know, the syllabus is a statement of what the court decides. The syllabus binds every member of the court agreeing to the opinion, and the syllabus says in so many words:

SYLLABUS BY THE COURT

1. Attorney general—Powers and duties: The attorney general is the State's chief law officer, subject only to direction of the governor or either branch of the legislature.

2. Same—Disposition of State's litigation: Ordinarily the attorney general, both under the common law and by statute, is empowered to make any disposition of the State's litigation which he deems for its best interest.

3. Same—Powers and duties under intoxicating liquor law: The framework and plan of the Kansas intoxicating liquor law contemplates a central law-enforcement head. That head is the attorney general, who has authority to enforce its provisions in any county in the State.

4. Same—Authority to dismiss: Where the attorney general appears in a legal prosecution he is entitled to have full charge thereof, and ordinarily the case should be dismissed if he so directs.

5. Same—Power to grant immunity from prosecution: F informed the attorney general of the illegal operation of an alcoholic still and was promised immunity from prosecution. Information of the still's operation was conveyed to the sheriff and county attorney, as a result of which B was arrested and pleaded guilty, but in so doing implicated F, claiming F was a partner in operation of the still. F was prosecuted by the county attorney over objection of the attorney general, who moved to dismiss the action. Held, it was within the sound discretion of the attorney general whether he would grant immunity to F, upon whose information B was convicted, and that under the circumstances related in the opinion the prosecution against F should have been dismissed upon motion of the attorney general.

That is all of the syllabus. It appears from that, Senators, I take it, that the facts related by the Senator from Maryland at the time immunity was promised were not in possession of the attorney general—that is to say, he did not know at that time that this man was in partnership, he did not know what might have gone on between those two.

I think regardless of what may have been right or wrong in this immunity business, whether or not it was good judgment, whether or not it was good sense, regardless of it all, when the attorney general, who, the Supreme Court of Kansas says, has a right to grant immunity, granted it, of course, the State ought to abide by that decision, no matter what happens, or how many guilty men get away.

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

Mr. NORRIS. I yield.

Mr. WATSON. This case has gotten itself into a rather unusual situation. The Senator from Kansas [Mr. ALLEN] said, in the absence of the Senator from Nebraska, that if the Senator from Nebraska takes the position that the nomination ought to be referred back to the committee, he would raise no objection.

Mr. NORRIS. I understood that, and I apologize to the Senator from Kansas and to the Senate also for taking so much time before reaching the real question that was put up to me.

I cited this case because I wanted to tell the Senate that the fact that in my mind it fell so flat probably made me prejudiced as to some other charge about which I know nothing.

I would like to say to the Senator from Kansas that I do not want to give any advice; I have tried to tell the facts just as they are, as the committee has them. I certainly have no objection to this matter going back to the committee if the Senate wants to send it back.

Mr. WALSH of Montana. Mr. President, the Senator stated that the nomination was referred to the same subcommittee to which the Watson case was referred.

Mr. NORRIS. I was wrong about it if I said that. They are not the same, but the chairman is the same.

Mr. WALSH of Montana. The Watson subcommittee consisted of the Senator from Idaho [Mr. BORAH], the Senator from Colorado [Mr. WATERMAN], and myself, and the committee considering the Hopkins nomination consisted of the Senator from Idaho [Mr. BORAH], the Senator from Illinois [Mr. DENEEN], and the Senator from North Carolina [Mr. OVERMAN].

Mr. NORRIS. I am glad to have that correction made. What I intended to say, and what I thought I did say, was that the chairman of the subcommittee in each case was the same.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. LA FOLLETTE. I do not know that there is any member now present of the subcommittee which had this nomination under consideration; but, if I understood the Senator from Nebraska correctly, when the subcommittee reported back to the full committee the committee was so hurried for time that there was practically no discussion of the findings of the subcommittee in the full committee, and it was agreed that any Senator who desired to do so could cast his vote as he thought best after the matter got back to the floor.

Mr. NORRIS. That is a fair statement.

Mr. LA FOLLETTE. This seems to me to be evidence that the committee has not carefully considered all of these matters.

Mr. NORRIS. There is a good deal of this matter which the committee, and I think the subcommittee, never considered, although I hesitate to say that in the absence of all the members of the subcommittee, and I do not want to give any advice, because no member of the subcommittee is present. As far as I am concerned, I would not ask that the nomination be sent back to the committee. I am ready to vote on it. But if any reasonable number of Senators feel dissatisfied and want a fuller investigation, I am certainly willing to acquiesce.

Mr. WATSON. Mr. President, was the report of the subcommittee unanimous?

Mr. NORRIS. I think so.

Mr. WATSON. Would the Senator mind stating who composed the subcommittee?

Mr. NORRIS. That has just been stated. The Senator from Idaho [Mr. BORAH], the Senator from Illinois [Mr. DENEEN], and the Senator from North Carolina [Mr. OVERMAN], composed the subcommittee.

I want to correct the answer I made to the Senator from Indiana a moment ago. I have been informed that one member of the subcommittee was adverse.

If this matter is to be rereferred to the committee, I would like to make a statement as to what it seems to me ought to be done. If the matter is sent back to the Judiciary Committee, in order to save time and in order to save money, I think the Senate ought to pass the resolution authorizing the committee to send a subcommittee to Kansas to take the evidence. It would be a great deal cheaper to send a subcommittee of two or three Senators to Kansas to take the evidence than it would be to have all the records and witnesses brought to Washington. If we go into this matter fully we will have to have all the evidence that has been referred to.

I suppose it would require a resolution authorizing the payment of the expenses, which would have to be approved by the Committee to Audit and Control the Contingent Expenses of the Senate before it could legally be done. That would enable the subcommittee to go to Kansas to take the testimony during the vacation, so that they would be ready to report back to the full committee when Congress reconvened. It is improbable that there will be another meeting of the committee before the Senate reconvenes after the recess, unless it can be gotten together within the next day or two.

Mr. NORRIS subsequently said: Mr. President, I ask unanimous consent to print as a part of my remarks, and to be inserted at the end thereof, the entire opinion of the Supreme Court of Kansas, of which I read the syllabus.

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

The opinion is as follows:

No. 28526

THE STATE OF KANSAS, APPELLEE, *v.* GALEN FINCH, APPELLANT

SYLLABUS BY THE COURT

1. Attorney general—Powers and duties: The attorney general is the State's chief law officer, subject only to direction of the governor or either branch of the legislature.

2. Same—Disposition of State's litigation: Ordinarily the attorney general, both under the common law and by statute, is empowered to

make any disposition of the State's litigation which he deems for its best interest.

3. Same—Powers and duties under intoxicating liquor law: The framework and plan of the Kansas intoxicating liquor law contemplates a central law-enforcement head. That head is the attorney general, who has authority to enforce its provisions in any county in the State.

4. Same—Authority to dismiss: Where the attorney general appears in a legal prosecution he is entitled to have full charge thereof, and ordinarily the case should be dismissed if he so directs.

5. Same—Power to grant immunity from prosecution: F. informed the attorney general of the illegal operation of an alcoholic still and was promised immunity from prosecution. Information of the still's operation was conveyed to the sheriff and county attorney, as a result of which B. was arrested and pleaded guilty, but in so doing implicated F., claiming F. was a partner in operation of the still. F. was prosecuted by the county attorney over objection of the attorney general, who moved to dismiss the action. Held, it was within the sound discretion of the attorney general whether he would grant immunity to F., upon whose information B. was convicted, and that under the circumstances related in the opinion the prosecution against F. should have been dismissed upon motion of the attorney general.

Appeal from Shawnee district court, division No. 1; George A. Kline, judge. Opinion filed October 5, 1929. Reversed with instructions.

William A. Smith, attorney general, Lester Goodell and Paul Harvey, both of Topeka, for the appellant.

Paul H. Heinz, of Topeko, for the appellee.

The opinion of the court was delivered by—

Hopkins, J.: This controversy involves a consideration of the respective duties and powers of the attorney general and county attorney—the question whether the attorney general may control a liquor prosecution without the concurrence of, or in opposition to, the county attorney. The defendant imparted information to the attorney general concerning a violation of the prohibitory liquor law. The information was conveyed to the county attorney, who caused the arrest of one Jerry Brown, who pleaded guilty, and in so doing implicated the defendant, against whom the county attorney began this prosecution. The attorney general appeared and filed a motion to dismiss. The motion was overruled, and in spite of the efforts of the attorney general to stop the prosecution the case proceeded to trial at the instance of the county attorney. The defendant was convicted, and appeals.

The facts were substantially these: About 10 days before his arrest in this action Galen Finch visited and conversed with the attorney general. The substance of Finch's conversation was that he knew of a still in operation or about to be operated in Topeka, by Brown. Finch stated that he would advise the attorney general when liquor was to be run from the still. About 5 o'clock p. m. on January 23, 1928, Finch came again to the office of the attorney general and informed him that the still was in operation. The attorney general tried to reach first the sheriff and then the county attorney, but was unsuccessful. He then called the Federal prohibition director, gave him the name and address and asked him to get in touch with local officers and endeavor to make a raid. The prohibition director got in touch with the sheriff. A deputy sheriff conducted a raid that evening at the place suggested by Finch, arresting Brown and seizing the still. Members of the sheriff's force informed Brown that Finch "had turned him in." When that information was given Brown he told the officers that Finch was in partnership with him. Finch was arrested later the same evening.

It would serve no useful purpose to detail the evidence. (See State v. Rose, 124 Kan. 37, 257 Pac. 731.) It is sufficient to say that the information which led to the successful prosecution of Brown was furnished by Finch. It was transmitted by an unbroken chain to the prosecuting officers of Shawnee County. There is no claim of any independent source of information, and it is admitted that the attorney general told Finch he would be immune from prosecution for the exact offense for which he is now being prosecuted. No formal inquisition was held by the attorney general, but he agreed that Finch would be immune from prosecution. Such understandings are common with prosecuting officers in cases where conviction of one defendant can be accomplished only through information obtained from an accomplice. It is not necessary to consider whether such an agreement would be binding if the prosecutor later chose to violate it. The attorney general did not repudiate his understanding with Finch, but used every effort to carry it out.

The legal effect of these circumstances involves a consideration of the respective powers and duties of the attorney general and county attorney. It is not contemplated by our constitution and statutes that the attorney general shall appear in every prosecution for crime, though he does frequently appear in the district court. The statute provides that the attorney general shall consult with and advise county attorneys, when requested by them, in all matters pertaining to their official duties. (R. S. 75-704.) Adequate enforcement of the law involves coordinated action upon the part of these officials as well as all State and local executive officials. In our scheme of government the attorney general is the chief law officer, subject only to direction of the governor and the legislature.

In State ex rel. v. Dawson (86 Kans. 180, 119 Pac. 360) the authority of the governor to direct the attorney general was considered. It was held that—

"The provisions of article 1 of the constitution which vests the supreme executive power in the governor implies that the governor is the highest in authority in the executive department, with such power as will secure a faithful execution of the laws in the manner and by the methods prescribed by the constitution and statutes in harmony with that instrument. * * * The statute making it the duty of the attorney general, when required by the governor, to appear for the State and prosecute in any court or before any officer, in any cause or matter, civil or criminal, in which the State may be a party or interested, is mandatory." (Syllabus.)

In the opinion it was said:

"We do not find that the meaning of the phrase, 'The supreme executive power,' as contained in our constitution and the constitutions of many other States of this Union, has ever been precisely defined, although the matter is referred to in some decisions. Perhaps the term itself, taken in connection with the context, is sufficiently explicit. An executive department is created consisting of a governor and the other officers named, and he is designated as the one having the supreme executive power—that is, the highest in authority in that department" (p. 187).

In an early Illinois decision it was held:

"When a constitution gives a general power, or enjoins a duty, it also gives, by implication, every particular power necessary for the exercise of the one or the performance of the other. The implication under this rule, however, must be a necessary, not a conjectural or argumentative one. And it is further modified by another rule, that where the means for the exercise of a granted power are given, no other or different means can be implied as being more effectual or convenient." (Field v. The People, 3 Ill. 79, 83.)

Our own statute declares:

"The attorney general shall appear for the State and prosecute and defend all actions and proceedings, civil or criminal, in the supreme court, in which the State shall be interested or a party, and shall also, when required by the governor or either branch of the legislature, appear for the State and prosecute or defend, in any other court, or before any officer, in any cause or matter, civil or criminal, in which this State may be a party or interested." (R. S. 75-702.)

And so, while primarily the governor is charged with the execution of the law, next to him the attorney general is the chief law officer of the State. Some observations concerning the development of the attorney general's duties and powers are not amiss. In Massachusetts Law Quarterly (May, 1921, p. 100) it is said:

"The office of the attorney general is of considerable antiquity. Its early history and growth in England are traced in an article by Mr. Holdsworth, the learned historian of English law, in 13 Illinois Law Review, 602, wherein its development is shown to have been essentially completed before the main migration of our ancestors to this country."

In 2 R. C. L. 913 it is said:

"The office of attorney general is of very early origin in England, though the first patent of appointment which can be found seems to be one dated 1472. At common law the attorney general was the chief representative of the sovereign in the courts, and it was his duty to appear for and prosecute in behalf of the Crown any matters—criminal as well as civil. It was said by Mr. Blackstone: 'He represents the sovereign, in whose name all criminal processes issue, and his power to prosecute all criminal offenses is unquestioned at common law.' It would seem, therefore, that the attorney general may exercise common-law powers unless the constitution or statute law, either expressly or by reasonable intendment, forbids the exercise thereof; and under the colonial government the attorney general received his appointment from the governor of the colony and exercised his duties under the common law. * * * A State attorney general in many jurisdictions may exercise all the common-law powers incident to and inherent in his office, in addition to such authority as may be expressly conferred upon him by the State constitution and general laws. * * * The attorney general of a State is its principal law officer. His authority is coextensive with the public legal affairs of the whole community. * * * As the representative of the State, an attorney general is empowered to bring any action which he deems to be necessary for the protection of the public interests. His authority in this respect is necessarily implied from the nature of his office, and will be presumed to exist in the absence of evidence to the contrary. * * * And, as a rule, the attorney general has power, both under the common law and by statute, to make any disposition of the State's litigation that he deems for its best interest; for instance, he may abandon, discontinue, dismiss, or compromise it. But he can not enter into any agreement with respect to the conduct of litigation which will bind his successor in office, nor can he empower any other person to do so. * * * The attorney general may dismiss any suit or proceeding, prosecuted solely in the public interest, regardless of the relator's wishes. * * * Where the attorney general is empowered, either generally or specially, to conduct a criminal prosecution, he may do any act which the prose-

cuting attorney might do in the premises; that is, he can do each and every thing essential to prosecute in accordance with the law of the land, and this includes appearing in proceedings before the grand jury. So an attorney general, even at common law, had the right to enter a nolle prosequi, although he could not do so during the trial without leave of court" (pp. 1143, 1149, 1151, 1160, 1161, 1164).

In 2 R. C. L. 913 it is said:

"Defined generally, an attorney general is the chief law officer of a state or nation, to whom is usually intrusted not only the duty of prosecuting all suits or proceedings wherein the State is concerned, but also the task of advising the chief executive, and other administrative heads of the government, in all legal matters on which they may desire his opinion. * * * The office of prosecuting or district attorney, unlike that of attorney general, is of modern creation, with its duties chiefly prescribed by statute. The civil and criminal business of the State which once pertained actually, as well as theoretically, to the office of attorney general has been divided between the two offices for purposes of convenience. In fact, the office of prosecuting attorney has been carved out of that of attorney general and virtually made an independent office. In the exercise of his common-law powers the attorney general undoubtedly may advise the prosecuting attorney as he does other officers, since he is regarded as the chief law officer of the State; but in practically all jurisdictions, either the constitution or laws of the State make the two offices separate and distinct, and vest in the prosecuting attorney certain powers and impose upon him certain duties, which can be neither increased nor decreased by the attorney general. The sense in which the local officer is subordinate to the general one seems to be that they are engaged in the same branch or department of the public business, which of course, makes the relation theoretical rather than practical. * * * At common law the duties of the attorney general, as chief law officer of the realm, were very numerous and varied. He was the chief legal adviser of the crown, and was intrusted with the management of all legal affairs and the prosecution of all suits, civil and criminal, in which the crown was interested. He alone could discontinue a criminal prosecution by entering a nolle prosequi therein. * * * It is generally acknowledged that the attorney general is the proper party to determine the necessity and advisability of undertaking or prosecuting actions on the part of the State. Thus it has been held that the discretion of the attorney general in determining what the public interests require as to bringing an action against a domestic business corporation or its officers is absolute, and can not be made the subject of inquiry by the courts. In like manner, under a statute imposing upon the attorney general the duty of enforcing a prohibition law whenever it is not enforced in any county of the State, it is held that he is clearly the sole person to judge of the existence of the statutory grounds calling for intervention on his part. As a rule, the character of the duties pertaining to the office are such as call for the exercise of personal judgment based upon the facts and circumstances surrounding each particular question" (pp. 914, 915, 919).

In People v. Kramer (68 N. Y. S. 383), it was said in the opinion:

"The common law of England was the law of our colonial government. The attorney general, under the colonial government, received his appointment from the governor of the colony, and exercised his duties under the common law. Later on he was commissioned by the Crown. The attorney general, at common law, was the chief legal representative of the soverign in the courts, and it was his duty to appear for and prosecute in behalf of the Crown any matters, criminal as well as civil It was said by Blackstone (3 Bl. Comm. 27): 'He represents the sovereign, in whose name all criminal processes issue, and his power to prosecute all criminal offenses is unquestioned at common law'" (p. 386).

In The People v. Miner (2 Lans. 397, N. Y.), it was said:

"As the powers of the attorney general were not conferred by statute, a grant by statute of the same or other powers would not operate to deprive him of those belonging to the office at common law, unless the statute, either expressly or by reasonable intendment, forbade the exercise of powers not thus expressly conferred. He must be held, therefore, to have all the powers belonging to the office at common law, and such additional powers as the legislature has seen fit to confer upon him" (p. 399).

In State ex rel. Ford v. Young et al. (54 Mont. 401), it was said in the opinion:

"It is the general consensus of opinion that in practically every State of this Union whose basis of jurisprudence is the common law, the office of attorney general, as it existed in England, was adopted as a part of the governmental machinery, and that in the absence of express restrictions, the common-law duties attach themselves to the office so far as they are applicable and in harmony with our system of government. (6 Corpus Juris, 805, 809; 2 R. C. L., p. 916; Hunt v. Chicago, H. & D. Ry. Co., 121 Ill. 638, 13 N. E. 176; Ex Parte Young, 209 U. S. 123, 14 Ann. Cas. 764, 13 L. R. A., n. s., 932, 52 L. Ed. 714, 28 Sup. Ct. Rep. 441; State v. Robinson, 101 Minn. 277, 20 L. R. A., n. s., 1127, 112 N. W. 269" (p. 403).

In State ex rel. Nolan v. District Court (22 Mont. 25), it was said in the opinion:

"Enumeration of his duties is made by Article VIII, secs. 460 et seq., Political Code. Among other requirements therein mentioned, he is to exercise a supervisory power over county attorneys in all matters pertaining to the duties of their offices, and from time to time to require of them reports as to the condition of public business intrusted to their charge.

"A duty to exercise supervisory power clearly implies the possession of supervisory power. There is, therefore, in the attorney general a right to oversee for direction, to inspect with an authority all matters pertaining to the duties of the county attorneys of the State, and to direct with superintending oversight the official conduct and acts of such officials; and it is his prescribed duty to exercise and perform these acts, and to do whatever may be necessary and proper to render his power in these respects effective. Duty to exercise general supervisory power over county attorneys would not, however, necessarily carry with it a duty to actively assist a county attorney in the discharge of his duties, for supervision might be exerted without actual assistance" (p. 27).

See also Commonwealth v. Kozlowsky (238 Mass. 379), State v. Robinson (101 Minn. 277), Ex Parte Young (209 U. S. 123), State v. Fisheries Co. (120 Me. 121).

The English common law furnished the basis of American jurisprudence. It was prevalent throughout the territory now known as Kansas from the earliest times down to October 31, 1868, when the present statute was enacted, which provides that—

"The common law as modified by constitutional and statutory law, judicial decisions, and the conditions and wants of the people, shall remain in force in aid of the general statutes of this State." (R. S. 77–109.)

See also Sattig v. Small (1 Kan. 170), Kansas Pacific Railway Co. v. Nichols, Kennedy & Co. (9 Kan. 235), Clark v. Allaman (71 Kan. 206, 80 Pac. 571).

We conclude that the attorney general's powers are as broad as the common law unless restricted or modified by statute.

Prohibition of the beverage liquor traffic and the attorney general's relation thereto is properly a matter for consideration here. Legal prohibition in Kansas has had a progressive development from the initial regulation of the saloon and tavern (chs. 53, 64, 77, 84, Territorial Laws, 1855) down to and including the bone dry act enacted in 1917 (R. S. 21–2101) and the antistill law enacted in 1923 (R. S. 21–2111). By the adoption of the prohibition amendment to our constitution in 1880 (Laws of 1879, ch. 165), and the enactment of the prohibitory law in support thereof (Laws of 1881, ch. 128) Kansas established prohibition as a part of the State's public policy. In so doing it became a pioneer in the inauguration of this policy, although other courts had long since taken judicial notice of the fact that the beverage liquor traffic had been the dominant cause of crime, misery, and pauperism; that intoxicants, directly or indirectly, had sent more people to jails, penitentiaries, and insane asylums than any other cause; that a large percentage of all crimes charged against persons arraigned in the courts was properly attributed to the use of intoxicating liquor. Judicial notice means that courts consider, without evidence, those matters of public concern which are known to all well-informed persons. For instance, the relation of intoxicating liquor to crime was recognized by the Supreme Court of the United States as far back as 1847. In the License Cases (5 How. 504, 632, 12 Law Ed. 256, 592), then under consideration, it was said by Mr. Justice Grier:

"It is not necessary for the sake of justifying the State legislation now under consideration to array the appalling statistics of misery, pauperism, and crime which have their origin in the use or abuse of ardent spirits."

In Mugler v. Kansas (123 U. S. 623) Mr. Justice Harlan, writing the opinion for the court, said:

"We can not shut out of view the fact, within the knowledge of all, that the public health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks; nor the fact established by statistics, accessible to everyone, that the idleness, disorder, pauperism, and crime existing in the country are, in some degree, at least, traceable to this evil" (p. 662).

In Crowley v. Christensen (137 U. S. 86) it was said:

"By the general concurrence of opinion of every civilized and Christian community, there are few sources of crime and misery to society equal to the dram shop. * * * The statistics of every State show a greater amount of crime and misery attributable to the use of ardent spirits obtained at these retail liquor saloons than to any other source. * * * There is no inherent right in a citizen to sell intoxicating liquors by retail; it is not a privilege of a citizen of the State or of a citizen of the United States" (p. 91).

The Supreme Court of Ohio in Adler v. Whitbeck (44 Ohio St. 539) said that the liquor traffic is the "acknowledged source of much of the crime and pauperism in the State" (p. 568).

The Supreme Court of Illinois in Schwuchow v. City of Chicago (68 Ill. 444) characterized the liquor traffic in these words:

"We presume no one would have the hardihood to contend that the retail sale of intoxicating drinks does not tend in a large degree to

demoralize the community, to foster vice, produce crime and beggary, want and misery" (p. 448).

In State v. Durein (70 Kan. 1, 80 Pac. 987) this court said:

"Intoxicating liquor is * * * the prolific source of disease, misery, pauperism, vice, and crime. Its power to weaken, corrupt, debauch, and slay human character and human life is not destroyed or impaired because it may be susceptible of some innocent uses, or may be used with propriety on some occasions. The health, morals, peace, and safety of the community at large are still threatened" (p. 21).

Organized society always has the right to invade the domain of personal liberty when the safety or general improvement of the community is at stake. This State, having long since learned that the use of alcohol as a beverage is a great physical evil and a standing menace to her people; that beverage alcohol destroys physical and mental vitality and resistance to disease; that it increases poverty and ignorance; that it stimulates vice and crime, determined to exercise its inherent right to prohibit it. Such right is the exercise of police power, a power which the State uses for the protection of society as a whole. The argument that the prohibition law interferes with individual liberty and that the individual has never had his day in court is answered by the decisions of the highest courts, that the individual has no inherent right to do anything which interferes with the general welfare.

The framework and plan of our intoxicating liquor law contemplates a central law enforcement head. That head is the attorney general. Under that law he is given authority and power not ordinarily given in other laws. The intoxicating liquor law provides:

"Whenever the county attorney shall be unable or shall neglect or refuse to enforce the provisions of this act in his county, or for any reason whatever the provisions of this act shall not be enforced in any county, it shall be the duty of the attorney general to enforce the same in such county * * * and he and his assistants shall be authorized to sign, verify, and file all such complaints, information, petitions, and papers as the county attorney is authorized to sign, verify, or file, and to do and perform any act that the county attorney might lawfully do or perform." (R. S. 21-2125.)

Under the provisions of this statute there need be no finding or even belief by the attorney general that the county attorney is corrupt or that he has neglected to enforce the provisions of such law in his county. If the attorney general believes that the plan or system followed by the county attorney is ineffective he may go in, even though he believes the county attorney is acting in entire good faith. In the instant case the attorney general thought that the prosecution of Finch would be a detriment rather than an aid to the enforcement of the intoxicating liquor law. Under such circumstances it was not only his power but his duty to take charge of that particular prosecution and conduct it according to his best judgment. He was not required to make any formal or written statement of a finding in determining whether he thought the prohibitory liquor law was or was not being enforced in Shawnee County.

There are three ways in which a criminal prosecution may be carried forward in this State—by private prosecutor in compliance with certain statutory requirements, by the county attorney, and by the attorney general. Ordinarily a case is commenced and prosecuted to conclusion by one of the methods enumerated and without conflict between them. In case of conflict the superior officer has control of the prosecution. It is necessary in the prosecution or the defense of any case, civil or criminal, that some one be in charge. It follows that where the attorney general is lawfully prosecuting in a county he has complete charge of the prosecution. In State v. Bowles (70 Kans. 821, 79 Pac. 726) it was said:

"When directed by the governor or either branch of the legislature to appear and prosecute criminal proceedings in any county, he (the attorney general) becomes the prosecuting attorney of that county in those proceedings, and has all the rights that any prosecuting officer there may have, including those of appearing before the grand jury, signing indictments, and pursuing cases to final determination" (p. 827).

The prosecutor in charge may dismiss a case not instituted by him.

"While the county attorney is not required to take part in a preliminary examination in a felony case unless requested to do so by the magistrate, if he does appear he is entitled to have full charge of the prosecution, and the case should be dismissed if he so directs." (Foley v. Ham, 102 Kans. 66, syl. 169 Pac. 183.)

The attorney general is not required to take part in a liquor prosecution, but if he does appear he is entitled to have full charge of the prosecution, and the case should be dismissed if he so directs. The denial of the motion of the attorney general to dismiss in the instant case is assigned as error. In Foley v. Ham, supra, it was said in the opinion:

"Notwithstanding that the county attorney is not required to attend a preliminary examination unless asked to do so, we hold that he may appear if he sees fit, and when he does his authority is as complete as though his presence had been requested. The proceeding, while somewhat informal, is an adversary one. It is accusatory or litigious rather than inquisitorial in character. It has something of the aspect of a voluntary investigation conducted by the magistrate, while exercising a function somewhat analogous to that of a grand jury, to determine whether or not there is ground for a prosecution. But under our practice it is quite different from that. It constitutes actual litigation between opposing parties. Testimony taken at such a hearing may be used at the trial in the district court, if the attendance of the witness can not be had (State v. Chadwell, 94 Kans. 302, 146 Pac. 420; 8 R. C. L. 213, 214), a course which could scarcely be justified if the proceedings were not essentially judicial—a trial between opposing parties presided over by a judge. The State is the plaintiff, and the State's attorney, rather than the complaining witness or any other unofficial person, is entitled to speak in its behalf and decide upon the course to be pursued in its interest" (p. 69).

What was said concerning the power of the county attorney in the Foley case applies in any case conducted by the Attorney General. In Martin v. State ex rel. (39 Kans. 576; 18 Pac. 472) it was held that the county attorney of Stevens County had no right to institute proceedings in the district court of Shawnee County without the consent and against the objection of the attorney general.

The enforcement of the prohibitory liquor law involves elements not ordinarily present in the enforcement of other laws. Liquor is easily concealed; the market for it is widely distributed. With the means of transportation now available liquor made in one county is sometimes wholly marketed in another; ordinarily more than one person is involved in its handling or in its production and sale. These conditions sometimes require law enforcement officers to obtain information from persons who have themselves violated the law. Such a method is not unusual when attempting to strike at the source of the supply and the larger dealers. Such conditions have made it imperative that effective law enforcement work be carried on more or less generally over the State by one head rather than leaving the task entirely to the efforts of local officers who make arrests for small violations in their own communities. For example, one offender may manufacture liquor in one county and sell and deliver the entire output to his runners (retailers) in another county far distant from the one in which it is made. The retailer is arrested and prosecution commenced in his own county. It would hamper law enforcement if the attorney general could not control the prosecution and even dismiss the action against a retailer in order to convict the manufacturer or wholesaler of the liquor, if he in good faith believes that the wiser course, and the refusal of the county attorney to cooperate and dismiss the case against the retailer would hamper the enforcement of the law as much as failure and refusal to prosecute generally. The power effectively to control a prosecution involves the power to discontinue, if, and when, in the opinion of the prosecutor in charge this should be done. We are of the opinion the trial court should have sustained the attorney general's motion to dismiss in the instant case. This conclusion necessarily disposes of the case and obviates discussion of other points raised in the briefs.

The judgment is reversed and the cause remanded with instructions to dismiss the case.

Harvey, J., not sitting.

Mr. ALLEN. Mr. President, the hour of 5 o'clock having arrived, and we having had a full day on this matter, I would like to ask that further discussion go over until to-morrow.

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

Mr. NORRIS. I have no objection.

Mr. SIMMONS. Mr. President, I hope that will not be done. We want to resume consideration of the tariff bill to-morrow. That is our only chance to do anything worth while in regard to the bill before the holiday recess.

Mr. WATSON. What bill?

Mr. SIMMONS. The tariff bill.

Mr. WATSON. The tariff bill?

Mr. NORRIS. Has the Senator from Indiana forgotten the tariff bill?

Mr. WATSON. I did not understand what the Senator from North Carolina said.

Mr. SIMMONS. I am afraid the Senator from Indiana has forgotten the tariff bill, or perhaps he would like to forget it.

Mr. SMOOT. I have not forgotten it.

Mr. WATSON. Mr. President, I am very anxious to take up the Executive Calendar, because there are several nominations on it that have come in to-day.

Mr. NORRIS. The suggestion has been made that the nomination of Judge Hopkins be referred back to the committee. Can we not dispose of that first?

Mr. WATSON. The Senator from Kansas [Mr. ALLEN] asked to have it go over until to-morrow.

Mr. NORRIS. Let us have it go over until to-morrow with the understanding that when we convene to-morrow we will vote upon the motion.

Mr. SIMMONS. Yes; without further debate.

Mr. NORRIS. We ought to have some debate. Senators who are members of the subcommittee of the Judiciary Committee which considered the nomination are not here. I really think I would like to consult with the chairman of the subcommittee before I agree to take any such action.

Mr. SIMMONS. Then let us vote not later than 12 o'clock to-morrow on the motion of the Senator from Wisconsin.

Mr. NORRIS. Mr. President, I ask unanimous consent that the nomination be laid aside until the convening of the Senate to-morrow morning at 11 o'clock and that the final vote on the motion now pending be had at not later than 12 o'clock.

The VICE PRESIDENT. Is there objection?

Mr. ALLEN. Mr. President, I do not wish to object, but if we are going to secure a just appreciation of the subject, since we have listened all day to attacks upon the nominee, I do believe that debate ought not to be limited to less than an hour.

Mr. SIMMONS. There is no proposition to limit debate with reference to the confirmation, but only to limit debate upon the pending motion to rerefer the nomination to the committee.

Mr. ALLEN. Very well.

Mr. WATSON. I think that is a very fair proposition.

The VICE PRESIDENT. Is there objection to the unanimous-consent request of the Senator from Nebraska?

Mr. BLEASE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BLEASE. What is the unanimous-consent proposal?

The VICE PRESIDENT. That consideration of the motion to recommit be postponed until to-morrow morning at 11 o'clock and that the vote be had upon the motion of the Senator from Wisconsin [Mr. BLAINE] at not later than 12 o'clock.

Mr. BLAINE. Debate on the motion to recommit evidently involves all of the questions that will be discussed on the question of confirmation.

Mr. NORRIS. Oh, not necessarily—not if the nomination is recommitted.

Mr. BLAINE. I understand that we are to vote on resubmission first.

Mr. NORRIS. Yes; and if that is carried that ends it for the present.

Mr. BLAINE. I can readily appreciate a situation where some Senator might take the entire hour and leave a great many questions open that ought to be answered.

Mr. NORRIS. I would like to say to the Senator that the only object I had in asking that it be delayed is that two members of the subcommittee are not here. One of them is sick, the Senator from North Carolina [Mr. OVERMAN], and he will not be here. The Senator from Illinois [Mr. DENEEN] is not in the city, I understand. The chairman of the subcommittee, Mr. BORAH, has not been here during the discussion, and I think he ought to be consulted before we vote on the motion. My own idea is that we take a vote immediately. I would be willing to agree to vote at five minutes after 11, if there is no objection, after hearing from the Senator from Idaho.

The VICE PRESIDENT. Is there objection to the unanimous-consent request of the Senator from Nebraska?

Mr. BLAINE. Mr. President, I would be disposed to object unless an opportunity for reply is had. If the limitation on the debate is arranged so that there will be an opportunity to reply and there will be a division of the time, then I shall not be disposed to object.

Mr. NORRIS. I modify my request to provide that one-half of the time shall be given to those who are opposed to the motion and one-half to those who are in favor of the motion.

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

Mr. WATSON. Mr. President, I suggest that we proceed now with the Executive Calendar.

The VICE PRESIDENT. The clerk will announce the first nomination on the Executive Calendar.

NOMINATION OF JULIUS HAROLD HART

The Chief Clerk announced the nomination of Julius Harold Hart to be United States attorney, district of Alaska, division No. 2.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

NOMINATION OF GEORGE J. HATFIELD

The Chief Clerk announced the nomination of George J. Hatfield to be United States attorney, northern district of California.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

NOMINATION OF WILLIAM J. KEVILLE

The Chief Clerk announced the nomination of William J. Keville to be United States marshal, district of Massachusetts.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

NOMINATION OF JOSEPH B. EASTMAN

The Chief Clerk announced the name of Joseph B. Eastman to be interstate commerce commissioner for a term expiring December 31, 1936.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

NOMINATION OF ROBERT M. JONES

The Chief Clerk announced the nomination of Robert M. Jones to be an interstate commerce commissioner for a term expiring December 31, 1934.

Mr. BLACK. Mr. President, I ask that the nomination may go over.

Mr. McKELLAR. Mr. President, as I understand it the term of the present commissioner will expire on the 31st of December. The Senate does not meet after the Christmas holidays until the 6th of January and there will be no further opportunity to go into the matter, unless the Senator from Alabama would be willing to take it up to-morrow.

Mr. BLACK. Mr. President, I would like to say in the first place that very little work is going to be done by the Interstate Commerce Commission during the Christmas holidays. In the next place the majority of the commission can do the work. Again, the President has been considering this appointment for some time. It could have been made weeks ago, but it was not made. It is the most important appointment, perhaps, that could be made by the President. I do not believe an appointment to be a Justice of the Supreme Court of the United States is any more important to the people of the country than an appointment to be a member of the Interstate Commerce Commission.

The appointment came to the Senate on yesterday. It was immediately referred to the Interstate Commerce Committee, and almost immediately reported back. It is my judgment that it is not right and in the best interests of the country to report on the nomination of a man to be a member of the Interstate Commerce Commission the same day the nomination is received from the President. I do not know this gentleman's record. We have not given any one a chance to object to him. We have not had time for the nomination to be published in the papers of Tennessee in order that the people can be heard from if there is objection to him. There are numerous matters of that kind which enter into the situation.

In my judgment, the nomination should go over in the interest of the proper information reaching this body, in order that we may fairly and justly determine whether this gentleman is the type of man that would make a good Interstate Commerce Commissioner. It is rather unusual to pick out the judge of a court and put him in charge of determining rates for the entire railroad system of the United States, without any opportunity for an investigation to determine what peculiar fitness he has and what is his peculiar bent of mind. It is also rather unusual to displace a Democratic member of a supposedly bipartisan commission, and as a result make its membership six Republicans and four Democrats.

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

Mr. BLACK. Certainly.

Mr. COUZENS. The Senator is mistaken about the political division of the commission. Commissioner Eastman has openly declared that he has voted for Democratic presidential candidates, including President Wilson, who made the appointment. He stated that he has voted for every Democratic presidential candidate since that time. There is no question about Commissioner Eastman being a Democrat.

Mr. BLACK. When did he make that statement?

Mr. COUZENS. To-day; and he has made it every day since I have ever known him.

Mr. BLACK. This is the first time I ever heard that Commissioner Eastman is a Democrat. I was strongly in favor of him, and I think personally there is no better member of the commission, but I thought he was a Republican.

Mr. COUZENS. Commissioner Eastman's confirmation makes five Democrats and the confirmation of the nominee now under consideration would make six Republicans.

Mr. BLACK. It may be that Commissioner Eastman is a Democrat. If so, he is running true to form as a good member of the Interstate Commerce Commission. But it is a peculiar thing, while it is supposed to be a bipartisan commission, that whenever we have a Democrat appointed as a member of the commission it was always necessary to conduct a minute examination to determine what politics he has heretofore professed. So it is with Commissioner Eastman and so it was with reference to Commissioner Woodlock. Did Commissioner Eastman make the statement that he voted for the Democratic presidential candidate in the last election?

Mr. COUZENS. Commissioner Eastman made the statement that he voted for Alfred E. Smith in the last presidential election.

Mr. BLACK. And that he had voted for all Democratic presidential candidates since Mr. Wilson and including Mr. Wilson?

Mr. COUZENS. Yes.

Mr. BLACK. Did he state that he is a Democrat?

Mr. COUZENS. Absolutely.

Mr. BLACK. Has that statement been placed in the RECORD?

Mr. COUZENS. I do not know that it was in the RECORD. I know it is there now, because I have just made it.

Mr. BLACK. Did he write a letter to that effect?

Mr. COUZENS. No; but he said it.

Mr. BLACK. Primarily I object to taking up this nomination, because it is my judgment that the Senate is not properly informed as to the qualifications of the man who is to determine in fairness and justice what shall be the railroad rates to be levied upon the people of the country. It is impossible to reach a fair conclusion simply by virtue of statements being made by one or two people before the committee, before this man's nomination has been published to the country and before Senators can inform themselves on what his predilections may be with reference to questions coming up concerning contests and issues between the people and the railroads.

Mr. McKELLAR obtained the floor.

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

Mr. McKELLAR. I will yield in just a moment. I think in fairness to the nominee I should make a statement at this time.

I did not recommend Judge Jones to the President. I recommended a gentleman from Memphis, Tenn. Judge Jones was appointed. He was very highly recommended. Judge Jones is the chancellor in the Knoxville chancery district. In Tennessee we continue to keep the distinction between equity and law, and the chancery court is one of our very important courts. The business is quite large in those courts. Judge Jones is a Republican and does not belong to the same political party that I do. I have known him a long time, I have known him well, and I have known him favorably. He is a very able man. He is a Republican—a well-known Republican. I do not suppose he ever voted a Democratic ticket in his life. I do not suppose he even voted for me. Nevertheless, the Democratic Governor of Tennessee several years ago, in filling a vacancy in the chancery division in which Judge Jones lives, appointed him. The governor was a Democrat and Judge Jones a Republican.

After that Judge Jones was elected as a Republican to the office of judge of the chancery court, or chancellor as we call him. In that office he has made good. He is as clean and high class a gentleman as I know. He is a man of excellent ability. He is a great student. It is said of him that he has the best law library of any individual lawyer in our State, though not a man of means, so far as I know. He enjoyed an excellent law practice while a practicing attorney. He takes a great deal of interest in such matters as will come before the Interstate Commerce Commission. He is a man of ability, in every way worthy of the office. I assure my friend from Alabama of that from personal knowledge of Judge Jones. While I would have preferred a Democrat appointed in Mr. Taylor's place, yet the President has seen fit to send in Judge Jones's name and, knowing that he is in every way worthy, I think he should be confirmed. I hope that the Senate will confirm him before January 1. At that time he could take the oath of office and become a member of that body; and I hope my friend from Alabama will not object to it being done.

Mr. HEFLIN. Mr. President, will the Senator yield to me now?

Mr. McKELLAR. I am glad to yield now to my friend from Alabama.

Mr. HEFLIN. Mr. Taylor, the man whose place Judge Jones is to take, comes from Alabama. He has made a good commissioner. So far as I know, there is no complaint against him. It seems to me, as my colleague has pointed out, that we are rather rushing the matter to have this man's appointment come in yesterday, favorably reported out by the committee at once, and now an effort made to-day to confirm him. I think we ought to have a little more time to look into the matter.

Mr. McKELLAR. If the Senator will agree to let the nomination go over until to-morrow, or even until Friday, I would have no objection. I do not desire to rush anything through.

Mr. HEFLIN. Let it go over until we can talk with the Senator from Tennessee.

Mr. McKELLAR. I am willing to have it go over until to-morrow.

Mr. SMITH. Mr. President——

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

Mr. SMITH. No, Mr. President. I desire to say what I have to say in my own time, and, if necessary, I can say it at some other time.

Mr. McKELLAR. Oh, no, Mr. President. I yield the floor so the Senator from South Carolina may take it.

The VICE PRESIDENT. The Senator from South Carolina is recognized.

Mr. SMITH. Mr. President, I think an injustice has been done the Democratic side of the Chamber in the matter of this appointment. I do not believe there is a Senator on this side who would have suggested a candidate for this place had we been informed that it was to be a Republican vacancy. I have twice been the chairman of the Interstate Commerce Committee and have been the ranking member of it for a number of years. I was of the opinion that this was a Democratic vacancy; in fact, I was informed by the highest possible authority that if the vacancy occurred it would be filled by a Democratic appointment. I, for one, speaking for myself, had a candidate, and other Senators had a candidate for the office.

This whole situation might have been simplified if, when we consulted with the appointing powers, it had been frankly stated, "This is a Republican vacancy." The law does not provide that the minority members of the commission shall be Democrats. It provides that the majority of the commission shall be composed of members of the dominant party at that time; but the custom has been that the minority members shall represent the only other real, effective, organized political party of the Nation.

I never have heard of this man; the indorsements are all right; but the rumor went abroad that whomsoever should be appointed should be appointed, amongst other things, either because of his experience in transportation questions in some State or because of his affiliations with transportation affairs generally. I do not know what the qualifications of this man may be. I objected yesterday in the committee to his nomination on the ground that practically, in my opinion, his appointment left only three Democrats on the commission.

The Senator who is now chairman of the committee informs me of something which is news to me. I knew Mr. Eastman was an extraordinarily good commissioner, that he stood out preeminently; and the Senator from Michigan and other members of the committee will bear me out in the statement that although at that time I considered him a Republican—which I might have known was not true, because of the splendid work that he has done and the manner in which he has done it—yet, even as a Democrat I had no objection to the appointment of Mr. Eastman. Now, I know one of the reasons why there is extraordinary ability and efficiency on the commission; but Mr. Jones, so far as I know, has had no kind of experience and has no kind of qualifications.

Mr. SIMMONS. Mr. President, I understand that the Senator from Tennessee does not claim that he has had any experience or has any qualifications. The Senator from Tennessee, however, claims that he is a good lawyer.

Mr. McKELLAR. Yes.

Mr. SIMMONS. And is an able man.

Mr. McKELLAR. And that he would make a splendid member of the commission.

Mr. SIMMONS. But the Senator does not say that he has had any experience or has any qualifications to deal with great transportation questions.

Mr. McKELLAR. I think he is in every way capable of dealing with that kind of questions. The only thing I do not claim for him, which is, of course, true, is that he never has had any experience as an interstate commerce commissioner, nor, so far as I know, has he ever had any experience as a State commissioner; but I feel that a man who is well trained as a lawyer and has had experience as a chancellor is wholly capable of fulfilling the duties of the position.

Mr. SIMMONS. Mr. President, if the Senator from South Carolina [Mr. SMITH] will permit me, I desire to say that I was led to believe that the President desired to appoint to this position only a man who had had experience and training in matters pertaining to transportation. North Carolina presented a candidate for this position with that understanding, and with the additional understanding that this place was to go to a Democrat; that it was now held by a Democrat, and that the appointee was to be a Democrat. Having that idea with reference to it, the two Republican Representatives from North Carolina indorsed a Democrat from North Carolina for the position. One of those Republican Representatives, who is a member of the Republican National Executive Committee, has

been very active in behalf of the Democratic candidate presented by North Carolina, and upon the theory that it was a Democratic position. Otherwise, I take it, he would not have favored the North Carolina Democrat; otherwise I would not have presented the name of that Democrat, because I told the President I would make no recommendation to him with reference to an appointment that was considered patronage.

Mr. McKELLAR. Mr. President, may I say to the Senator from North Carolina that, acting along the same lines as did the Senator, I recommended Mr. Cecil A. New, a Democrat, of Memphis, but he was not appointed. As I have no power to make the appointment, inasmuch as the President had turned down the man whom I recommended and had appointed another who is a member of another party, as he has the right to do under the law, I could see no reason why I should not vote to confirm such a man; and I so notified the committee on yesterday.

Mr. SMITH. Mr. President, as a matter of course, under our system of selecting appointees for such positions as this, the initiation must be——

Mr. WATSON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from South Carolina yield to the Senator from Indiana?

Mr. SMITH. Let me first finish the sentence.

Mr. WATSON. Certainly.

Mr. SMITH. The initiation of the nomination must come from the President; but there never was a time in the history of railroad transportation in this country when there was greater need for the best training along transportation lines that it is possible to get. We are in a transition period. There is now before this body the question of changing the entire policy of the Government toward the railroads and of the railroads toward the public. The question is confronting us of the consolidation of all the railroads and railroad systems into a few gigantic combinations. The public is vitally affected by that proposal, and it is our duty not to play politics, but with meticulous regard to the tremendous issues involved, to see to it that the men who go on the Interstate Commerce Commission to determine the future of rail transportation under the inevitable new order shall be men who will have due regard for the diverse interests of organized society. In this instance a man is proposed whom not a single Senator on this floor knows. No Senator knows what his mental qualifications to grapple with this subject and to deal with it may be.

The proposed merger of railroads and railroad systems can not be deferred. There are bills now pending looking to that end, although we do not need any further legislation to initiate it, because under the law to-day the Interstate Commerce Commission has the right and the power to indorse such mergers. The proposal, however, is loaded with dynamite. Under the law as it now stands, we have taken a step under which it is possible to put the shipping public of America into the hands of an octopus that will be master of the situation.

It is not a mere question of whence a man comes or what his politics is; it is the vital matter of his qualifications. A question uppermost in our mind should be whether a man nominated to be a member of the Interstate Commerce Commission can contribute to the solution of America's great rail transportation problems. We ought to deal with such nominations in another manner than we are now dealing with this one.

Mr. WATSON. Mr. President, will the Senator yield to me?

Mr. SMITH. I yield.

Mr. WATSON. My understanding is that there will be no vote taken on the nomination to-day. The Senator is discussing the case on its merits; we could not get a quorum now if we wanted to; and my thought was that this matter ought to go over until to-morrow.

Mr. SIMMONS. No, Mr. President; let it go over until after the holiday recess.

Mr. SMITH. The nomination now being before the Senate, I am going to justify my position in contending that we want to investigate the qualifications of the nominee to ascertain whether he is capable of meeting a problem that is second to none which may come before us.

In the O'Fallon decision, we got an intimation of what may occur. We have expended millions and millions of dollars in the effort to secure a reasonable comprehension of the value of the railroads of America; but we are perhaps not any nearer to ascertaining that value now than we were before. There is involved in the final settlement of the transportation question the relief, if any, that is to be afforded the general shipping public. It is our duty, so far as the committee, of which I am a member, and the Senate, of which I am a Member, are concerned, to investigate the qualifications of this man.

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

Mr. SMITH. I yield.

Mr. BLACK. Does not the Senator, who is the ranking Democratic member of the Interstate Commerce Committee, think that this nomination ought to go back to that committee for a real investigation of one of the most important appointments that can be made in the United States, and not treat it as though it were a third-class postmastership?

Mr. SMITH. Mr. President, I want to state here and now—I may not speak again on this question—that I have watched the processes by which appointments to the Interstate Commerce Commission are made and by which they are considered. The Interstate Commerce Commission, as we all know, is a quasi court, and it is just as important to the welfare of the citizenship as are the ordinary civil courts. The same methods have been followed ever since I have been a member of the committee. Inasmuch as the entire policy affecting rail transportation is to be changed, inasmuch as colossal combinations are already authorized by the present law—there may be certain modifications, perhaps, from time to time—I think that we ought to see to it that the men appointed to the Interstate Commerce Commission are as highly qualified as are the men who are placed upon the Federal bench to discharge the duties of a judge. The commission is not a mere political football that may be kicked about. The Senator from Alabama [Mr. BLACK] has put his finger on the very nub of the situation. The Interstate Commerce Commission is a judicial body which, I repeat, has in its keeping the welfare of this country as much as have the courts; but here we are about to confirm a man who, so far as we know, may not know the difference between a crosstie and a sleeper, who may not know the difference between a frog and a switch. We have no idea what he knows about the problems with which he will be confronted. There are plenty of men, members of State commissions, who by their knowledge and long experience would be splendid additions to the Interstate Commerce Commission. That is the primary school in which commissioners are trained, disregarding who put them there.

Mr. President, I should like to have this appointment go over until after the recess, when we will have ample time to have this man before us, question him, and find out just what his knowledge of the subject is. I was a bit amused at the statement of the Senator from Tennessee that his being a lawyer is enough. Just so he is a lawyer, he is qualified to fill any job in America.

Mr. NORRIS. He is not qualified to be a judge.

Mr. McKELLAR. It depends upon what kind of a lawyer he is.

Mr. SMITH. If he is the kind I have been associated with, I should still have to question him.

Mr. McKELLAR. Perhaps the Senator has not associated with very good lawyers.

Mr. SMITH. I have not—not in this body.

Mr. President, in the interest of my long service on the Interstate Commerce Committee, realizing the importance of the questions that are now confronting us and that will have to be solved, I should like to have this matter go over until such time as we can ascertain the fitness of this nominee.

Mr. COUZENS. Mr. President I desire to say a word in support of the action of the Interstate Commerce Committee in reporting out this name.

The Senator from South Carolina [Mr. SMITH] was present at the meeting, and had his opportunity to express himself; and certainly I got the impression, after considerable discussion, that he was agreeable to reporting out the nominee favorably.

Mr. SMITH. Mr. President, if the Senator will allow me. I believe the Senator recalls that I told him that I felt very much like the man who was on the jury and came out and said there were 11 of the darndest fools he ever saw; they were every one "agin' him."

I saw that it was inevitable. I intended then, as I am doing now, to express my opinion. I believe another one of the members of the committee said that his voting to report out the nomination did not preclude his saying on the floor of the Senate what he saw fit. I feel that in conformity with the attitude I took in the committee I may vote for this man, but I think we are entitled to know his qualifications as nearly as we may.

Mr. COUZENS. I may say to the Senator that if the Senator had objected to reporting out the nomination yesterday, I would have listened to his objection and in all probability it would not have been reported out.

Mr. SMITH. I believe the Senator went far enough to say that if the Senator from South Carolina said "No," the Senator thought that would settle it.

Mr. COUZENS. I said that if there were any objections to reporting it out, the committee would not attempt to railroad it through and would not report it out. I just do not want to be

placed in the embarrassing position of having the Senator from South Carolina appear now and say that he did not have a chance to object in the Interstate Commerce Committee.

Mr. SMITH. Oh, no; I did not say that. I could have objected and made this same talk yesterday; but it was inevitable that a majority of them would report it out.

Mr. COUZENS. Oh, no!

Mr. SMITH. Oh, yes!

Mr. COUZENS. The Senator from South Carolina knows very well that when a Senator asks a matter to go over, the committee usually, out of respect for that Senator, allows the matter to go over.

Mr. SMITH. I want to exonerate the Senator from Michigan from any attempt to railroad the matter or otherwise. He was perfectly fair to every Member and to me; and I am simply taking the opportunity here and now of saying that I think we ought, either individually or in the committee—I do not ask you to recommit the recommendation to the committee—to be given time to investigate his fitness. That is my conviction now.

Mr. COUZENS. Mr. President——

Mr. BLACK. Mr. President, will the Senator yield just for a suggestion?

Mr. COUZENS. Yes.

Mr. BLACK. Does not the Senator think it would be perfectly all right to let this matter go back to the committee for investigation? I will state to the Senator that I have received some information which I do not care to mention on the floor, which in no way reflects upon the character of the gentleman, however; but I think it should be investigated. I want to know who indorsed this gentleman. Did the committee have that information?

Mr. COUZENS. Yes. I want to say, if the Senator will yield to me to complete my statement——

Mr. BLACK. Yes.

Mr. COUZENS. This nomination, together with the nomination of Commissioner Eastman, came to the committee yesterday; and in spite of the fact that there were rumors of considerable opposition to Commissioner Eastman there was no objection in the committee, and I am glad to say there has been no objection on the floor of the Senate to the confirmation of Commissioner Eastman, who has already been confirmed.

When the nominations came to the committee, there came along with them a long list of recommendations for both the nominees. There were six pages of recommendations for Commissioner Eastman, and each member of the committee was furnished a list of those who recommended Commissioner Eastman. The same was done with Mr. Robert Milton Jones, the other nominee for the commission; and I am going to ask the Senate to indulge me for a moment to say how and why the committee was convinced that this nomination ought to be reported favorably. I am not going into the history of the life of Mr. Jones, because I am going to ask consent to place this statement in the RECORD when I get through.

For instance, the first indorsement was the indorsement of the junior Senator from Tennessee [Mr. BROCK].

The next was the indorsement of the senior Senator from Tennessee [Mr. MCKELLAR].

The next was the indorsement of the senior Senator from West Virginia [Mr. HATFIELD].

Mr. MCKELLAR. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from Tennessee?

Mr. COUZENS. I do.

Mr. MCKELLAR. The way that was read, it will be necessary for me to make the same explanation that I made a while ago. I had indorsed Mr. New; but the secretary to the President asked me if I had any objection to Mr. Jones, and I did not have any objection. I could not have any objection, knowing Judge Jones as I did, and I so telephoned him; and it is for that reason that the report says he had my indorsement.

Mr. COUZENS. I do not understand that the Senator withdraws his indorsement.

Mr. MCKELLAR. Indeed I do not. I will leave it just that way. I wanted the facts to be shown.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the Senator from North Carolina?

Mr. COUZENS. I do.

Mr. SIMMONS. Does the Senator consider that the statement that he does not object to Mr. Jones is an indorsement of Mr. Jones?

Mr. MCKELLAR. To this extent: I was told that the President was not going to appoint Mr. New, of Memphis, whom I had indorsed. As he was not going to appoint him, my next choice was Judge Jones, and I so stated, and I so state now. I think he is admirably equipped for the place in every way, and I take great pleasure in saying that the only thing I know against him is that he is a member of the Republican Party; and the President having selected a Republican instead of a Democrat, I indorsed that appointment.

Mr. BROCK. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Michigan yield to the junior Senator from Tennessee?

Mr. COUZENS. I do.

Mr. BROCK. I desire to make a similar explanation, Mr. President. I indorsed a Democrat before I knew I was going to be a Member of the United States Senate. When I came up here I reindorsed that man as Senator. Later on I learned of changes in the powers that be and Judge Jones's name was up. He is a man I have known for many years, a high-class gentleman, one of Tennessee's best citizens; and I was glad, of course, to indorse a Tennessee Republican as long as we could not get a Democrat. I think he is fitted for the job, and, so far as I know, he will make a good member of the commission.

Mr. COUZENS. In addition to the indorsers I have already mentioned there is the Senator from Kentucky [Mr. SACKETT]; the Governor of Tennessee, Hon. H. H. Norton; the attorney general of Tennessee, Mr. L. D. Smith; Hon. J. WILL TAYLOR, of the House of Representatives; Hon. CARROLL REECE; United States Circuit Judge Hicks, of Cincinnati; Mr. Tom Henderson, chairman of the Democratic executive committee of Tennessee; Mr. J. Matt Chilton, Republican national committeeman, Louisville, Tenn.; Mr. Rose, of Kingston, Tenn.; Mr. Ellen, of Kingston, Tenn.; Mr. Holland, of Knoxville Chamber of Commerce; Mr. Robert E. Quirk, of Washington; Mr. Edgar Childress, of Athens, Tenn.; Mr. Bowling, of Harlan, Ky.; Mr. James G. Fisher, of Athens, Tenn.

Then among others who indorsed Judge Jones are five former Members of this body: Newell Sanders, of Chattanooga; Luke Lea; the late Senator Lawrence D. Tyson; J. B. Frazier; and former Senator John K. Shields.

In addition to that there is the chief justice of the Tennessee Supreme Court, and five other judges whom I am not going to take the time of the Senate to name.

In addition to that there are about 25 attorneys who indorse Judge Jones's appointment.

In addition to that there is Hon. Malcolm McDermott, dean of the law college of the University of Tennessee.

I ask permission to put in the RECORD all of the names of those who recommend and indorse Mr. Jones.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The matter referred to is as follows:

Robert Milton Jones, born Roane County, Tenn., September 23, 1870. Educated public schools of Roane County, at Roane College, and graduated, 1893, Grant University, Athens, Tenn. Studied law, law college, University of Tennessee, taking bachelor of law degree; admitted to bar 1896; practiced law, Kingston, Tenn, 1896–1903; member of firm Carr & Jones, Harriman, Tenn., 1903–1911; in 1911 formed a partnership with the late T. Asbury Wright and practiced as a member of the firm of Wright & Jones, Knoxville, Tenn., 1911–1920, when Mr. Wright died. Member of firm of Jones & Andrews, 1920–1922.

In 1922 became member of the law faculty, University of Tennessee, and is still a lecturer there.

Appointed special judge at different times to sit on court of appeals and on the Supreme Court of Tennessee in special cases. In 1924 appointed circuit judge by Governor Peay to fill out unexpired term of Judge Huffaker. Since 1926 chancellor of the eleventh district.

Indorsements: Hon. WILLIAM E. BROCK; Hon. KENNETH MCKELLAR; Hon. HENRY D. HATFIELD; Hon. FREDERIC M. SACKETT; Gov. H. H. Norton, of Tennessee; Attorney General L. D. Smith, of Tennessee; Hon. J. WILL TAYLOR; Hon. CARROLL REECE; United States Circuit Judge Xenophon Hicks, Cincinnati, Ohio; Tom Henderson, chairman Democratic executive committee of Tennessee; J. Matt Chilton, Republican national committeeman, Louisville, Ky.; C. M. Rose, Kingston, Tenn.; T. E. Ellen, Kingston, Tenn.; C. F. Holland, executive vice president, Knoxville Chamber of Commerce, Tennessee; Robert E. Quirk, Washington; Edgar Childress, Athens, Tenn.; L. A. Bowling, Harlan, Ky.; James G. Fisher, Athens, Tenn.; White, Hallaman & White, Alexandria, Va.; Alexander Barneyman, Knoxville, Tenn.

Judge Jones was also recently indorsed for a high Federal judicial post by—

Former United States Senators: Newell Sanders, Chattanooga, Tenn.; Luke Lea, Tennessee; Lawrence Tyson, Tennessee; J. B. Frazier, Tennessee, John K. Shields, Tate, Tenn.

Judges: Hon. Tom C. Rye, chancellor, eighth chancery district, Tennessee; Hon. Jonah T. Gore, judge, United States district court, Cooksville, Tenn.; Hon. H. B. Webster, Knoxville, Tenn.; Hon. A. C. Grim, Knoxville, Tenn.; Chief Justice Grafton Green, Tennessee Supreme

Court; Hon. George C. Taylor, United States district judge, Knoxville, Tenn.

Other public officials: Hon. William L. Frierson, former Solicitor General of United States; Gano F. Nolan, State treasurer, Tennessee; United States Attorney Everett Greer, Knoxville, Tenn.; Harvey H. Hannah, chairman State utilities commission, Tennessee; A. H. Roberts, former Governor of Tennessee; Hon. J. F. Bibb, district attorney general, Knoxville, Tenn.; Hon. Earnest N. Haston, secretary of state, Tennessee.

Attorneys: Charles C. Moore, Chattanooga, Tenn.; Thurman Ailor, Knoxville, Tenn.; George R. Shields, Washington, D. C.; W. T. Kennerly, Knoxville, Tenn.; Horace M. Carr, Harriman, Tenn.; Charles T. Cates, Knoxville, Tenn.; W. B. Lee, Knoxville, Tenn.; J. A. Susong, Greenville, Tenn.; R. B. Kramer, Maryville, Tenn.; E. W. Rogers, Knoxville, Tenn.; A. W. Louthman, Knoxville, Tenn.; R. A. Davis, Athens, Tenn.; White B. Miller, Chattanooga, Tenn.; John C. Goens, Chattanooga, Tenn.; Hal H. Clements, Knoxville, Tenn.; R. B. Cassell, Harriman, Tenn.; J. P. Powers, Knoxville, Tenn.; John Jennings, jr., Knoxville, Tenn.; J. H. Frantz, Knoxville, Tenn.; W. B. Lee, Knoxville, Tenn.; Charles J. Jones, Atkins, Tenn.; Jefferson McCarn, Nashville, Tenn.; John K. Shields, Tate, Tenn.; Harley G. Fowler, Knoxville, Tenn.; Hon. E. G. Stocksburg, Knoxville, Tenn.

Petition signed by 103 members of Chattanooga Bar Association, including—

Judges: Oren Yarnell, Charles M. Leak, R. N. Whitaker, W. B. Garwin.

Miscellaneous: T. R. Preston, president Hamilton National Bank, Chattanooga, Tenn.; Hon. E. C. Alexander, member State board of elections, Elizabethton, Tenn.; Hon. Malcolm McDermott, dean of law college, University of Tennessee; Mrs. Wiley L. Morgan, Knoxville, Tenn.

December 17, 1929.

Mr. COUZENS. So far as I am concerned, I wish to say that I have no desire to railroad this thing through. If it is the consensus of the Senators that we have not done a good job in the Interstate Commerce Committee, I assume that we shall have to do it over again; but I see no reason for sending the nomination back to the committee.

Mr. WATSON. Mr. President, do I understand from that that the Senator is willing that it shall go back to the committee?

Mr. COUZENS. I prefer not to have it go back to the committee, because I think we have had satisfactory indorsements. More Senators and former Senators have indorsed this candidate than have indorsed any other candidate, perhaps with the exception of Commissioner Eastman, since I have been here.

Mr. SMITH. Mr. President, I think the new method that the present President has inaugurated of publishing the names of all those who have indorsed a candidate has brought to light a condition that perhaps was not apparent before. Heretofore a man's name was sent in, and you were left to guess who indorsed him. Now, according to the policy announced by Mr. Hoover, he publishes the names of all those who have indorsed the man, so that you have quite a list.

I desire to ask the Senator from Tennessee when he got the information that a Democrat could not get this appointment.

Mr. McKELLAR. Yesterday morning.

Mr. SMITH. We met yesterday morning, and the Senator's name was already published as an indorser of this man.

Mr. McKELLAR. It was yesterday morning when I learned from Congressman TAYLOR that the appointment of Judge Jones would be agreed upon unless there was objection upon the part of the Tennessee Senators, and he asked me what would be my attitude. I very promptly stated that attitude—that under the circumstances there was no reason under heaven why I should not vote to confirm Judge Jones as a member of the commission. Knowing him as I did personally, knowing him as I did as a judicial officer and a man in Tennessee, there was nothing else for me to do as an honorable man and a representative of the people of Tennessee than to say that I should gladly vote to confirm that nomination. The Senator would have done just exactly what I did under the same circumstances.

Mr. SMITH. Perhaps I would; but the point I was making was that the committee met yesterday morning, and the Senator from Tennessee was put down as one of the indorsers. I am just curious to know if the Senator had been informed that a Republican would be appointed, and maybe this man.

Mr. McKELLAR. I was informed early yesterday morning of that fact, and it came in just exactly as I have stated it.

Mr. SMITH. That is all right.

Mr. McKELLAR. I have not withheld from the Senate a single fact, and I would not do so. I feel that the course I have taken in the matter has been exactly the proper course for me to take.

Mr. WATSON. Mr. President, is the Senator from Tennessee willing that the matter shall go over until after the holidays?

Mr. McKELLAR. Why, no; I do not think that ought to be done.

Mr. WATSON. Then let me ask the Senator another question. Does the Senator think it ought to be referred back to the committee?

Mr. McKELLAR. I see no reason for it. If there were anything against this man, it would be different.

The PRESIDENT pro tempore. The question is, Does the Senate advise and consent to the nomination?

Mr. BLACK. Mr. President, I ask unanimous consent that this appointment be sent back to the Interstate Commerce Committee for an investigation in order that they may determine otherwise than from printed indorsements whether or not this gentleman is competent in every way to sit on the most important body the United States Government has with reference to the fixing of railroad rates for this Nation.

The PRESIDENT pro tempore. Is there objection?

Mr. McKELLAR. I shall be compelled to object to the request.

The PRESIDENT pro tempore. Objection is made.

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

Mr. HALE. Mr. President, will not the Senator withhold that for a moment?

Mr. BLACK. I withhold the suggestion temporarily.

Mr. HALE. Mr. President, there are some very important nominations for promotions in the Navy and Marine Corps on which I would like to have action taken to-day, and if a quorum is called at the present time it may be developed that there is not a quorum present.

Mr. BLACK. That may be so. I do not know whether I shall vote for this nominee for the Interstate Commerce Commission or not, but if there is to be an effort made to put the nomination through between now and the holidays without an investigation by the committee we will fully discuss it in the Senate.

Mr. HALE. Will the Senator yield to me to make a unanimous-consent request?

The PRESIDENT pro tempore. Does the Senator withhold his suggestion of the absence of a quorum?

Mr. BLACK. I withhold it for a moment.

THE NAVY AND THE MARINE CORPS

Mr. HALE. I ask unanimous consent that certain nominations on the calendar for promotions in the Navy and Marine Corps be confirmed en bloc.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The nominations are confirmed, and the President will be notified.

THE JUDICIARY

Mr. HALE. Mr. President, there is one other nomination I would like to call up, if the Senator from Alabama will yield.

Mr. BLACK. I yield for that purpose.

Mr. HALE. To-day the junior Senator from Mississippi [Mr. STEPHENS] reported favorably from the Committee on the Judiciary the nomination of Stillman E. Woodman to be United States marshal in my State, and the nomination is now on the Executive Calendar. The Senator from Mississippi intended to ask unanimous consent that the nomination be considered to-day, but I see he has left the Chamber. I ask unanimous consent that the nomination be taken up at this time.

The PRESIDENT pro tempore. Is there objection to the present consideration of the nomination? The Chair hears none. The nomination is confirmed, and the President will be notified.

POSTMASTERS

Mr. PHIPPS. Mr. President, on page 11 of the Executive Calendar appears the name of Otis E. Jones to be postmaster at Prospect Station, Tenn.

Mr. McKELLAR. Mr. President, that nomination has been rereferred to the committee.

Mr. PHIPPS. I did not know the Senator had made that request.

I ask that the other nominations of postmasters on the calendar be confirmed en bloc.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The nominations are confirmed, without objection, and the President will be notified.

Mr. PHIPPS. Mr. President, the department has sent to the Senate and Senators have passed upon perhaps 150 nominations of postmasters which do not appear on the printed calendar. With very few exceptions they are reappointments. All the nominations have been approved by the Senators of the various

States, and I ask unanimous consent that the postal nominations reported to-day be confirmed.

Mr. BLEASE. That does not include the Laurens or St. Matthews office?

Mr. PHIPPS. Certainly not.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and, without objection, the nominations are confirmed, and the President will be notified.

BOARD OF TAX APPEALS

Mr. GEORGE. Mr. President, from the Committee on Finance I report favorably the nomination of Miss Annabel Matthews, of Georgia, to be a member of the United States Board of Tax Appeals for the unexpired term of William R. Green, jr., who has resigned.

I ask unanimous consent for the immediate consideration of this nomination. If any Senator desires to have it go over, I will not insist upon it.

The PRESIDENT pro tempore. Is there objection? The Chair hears none. The nomination is confirmed, and the President will be notified.

NOMINATION OF ROBERT M. JONES

Mr. GEORGE. Mr. President, will the Senator from Alabama yield to me?

Mr. BLACK. I yield to the Senator from Georgia.

Mr. GEORGE. If there were other nominations to be submitted I would not care to interpose, but let me suggest to the Senator from Tennessee that this nomination for the Interstate Commerce Commission of Judge Jones should go over. It is unfortunate, of course, that we are so near a recess, but it ought to go over, and I shall have to join with the Senator from Alabama and support his motion to have it go over, and I want to state briefly my reasons.

The importance of this commission can not be overstressed or overemphasized. Some decisions of the commission, in my candid judgment, are subject to just criticism.

So far as I am concerned, in the future I am not going to consent to the confirmation of the best man living if he is not a good man for this sort of a position. He may be immaculate, so far as his character is concerned, but if he is not capable of grasping the real problems, to the end that the southeast portion of this country may not continue to receive the bad end of what appears to me to be clearly discriminatory rate making, I shall oppose him.

The only way to ascertain whether Judge Jones is a man who ought to be confirmed in this important position is to have a hearing before the Committee on Interstate Commerce, and I very much hope the Senator from Tennessee will not oppose sending the name back but will allow a recommittal of the nomination to the committee. It is too important to pass over without the most thorough examination, and whatever may be the high character of Judge Jones—and nobody questions that—and whatever may be his high qualifications as a jurist, as a chancery judge—and nobody questions them—he may not be fitted for this position.

In the future, Mr. President, I must insist that the peculiar qualifications of an appointee for this office be looked into by the Senate before they accept him.

Mr. WATSON. Mr. President, will the Senator from Alabama yield to me?

Mr. BLACK. I yield.

Mr. WATSON. For the purpose of finding out what Senators think about this question, I ask unanimous consent that the pending matter—that is, the nomination of Judge Jones—be deferred until to-morrow afternoon at 4 o'clock.

Mr. BLACK. I object to that.

The PRESIDENT pro tempore. Objection is made.

Mr. WATSON. Will the Senator yield to me now to make a motion to take a recess until to-morrow at 11 o'clock?

Mr. BLACK. Mr. President, I am going to make a motion to refer this nomination back to the committee; but for fear I might not have the yeas and nays ordered, I think it will be essential that I first suggest the absence of a quorum.

Mr. President, I do not see that there is any legitimate ground of objection to an examination by a committee of a man who is said to have the highest character, to have led the most exemplary life, to be a man of the highest intellectual attainments. If he has all these qualifications, what is there to fear from a committee investigation?

Mr. McKELLAR. Mr. President, I do not think there is a thing under heaven to fear from an investigation of the closest kind as to Judge Jones.

Mr. WATSON. Then I suggest to the Senator from Tennessee that we let the matter go back to the committee and permit the investigation to be made.

Mr. McKELLAR. If it is thought by the Senate that that ought to be done, I am willing that it should be done. The committee has already reported favorably. I do not think there is any necessity for it, but if the Senate wants that course to be pursued I shall not object.

Mr. BLACK. Mr. President, I said what I did because I do not want a precedent established of a candidate for the important office of interstate commerce commissioner being reported without a thorough and complete investigation.

Mr. McKELLAR. I recall that there was no such thorough and complete examination when Colonel Taylor, from Alabama, was appointed.

Mr. BLACK. I was not here at that time.

Mr. McKELLAR. I do not recall that the Senators from Alabama demanded any such hearing at that time. I am glad to know that the Senator from Alabama is, even at this late date, desirous of having a careful examination made as to the qualifications of appointees to this commission.

Mr. BLACK. The Senator has no right to suggest that it is "at this late date," because I was not here at the time Colonel Taylor was appointed. I had nothing to do with his appointment, I did not recommend him; I recommended another man this time. This is the most important position a man can fill in the United States to-day, practically, and the idea that because a man happens to be from a particular State he shall be rushed through, or perhaps because he may have had great indorsements that he should be rushed through, I object to.

I ask unanimous consent that this nomination be recommitted to the committee for a full investigation of the matter, in order that the committee may properly report to this body whether or not in their judgment Mr. Jones is qualified—not from written indorsements to the President but from their own investigation.

The PRESIDENT pro tempore. Is there objection?

Mr. COUZENS. Mr. President, I would like to ask the Senator from Alabama what he wants us to investigate?

Mr. BLACK. I suggest this, that if I were the chairman of the Committee on Interstate Commerce, and there came before the committee a nomination for one of the most important positions in the United States, personally I would desire to know something of the appointee's environment in the past; I would wish to know whether or not he had been recommended largely by the railroads; I would wish to know whether or not the railroads had been responsible to any extent in securing his appointment. I would be interested in knowing whether or not any railroad lawyers from Knoxville, Tenn., came to Washington and interviewed the President in order to obtain his appointment. I would be interested in knowing whether or not any railroad lawyers from Knoxville had called up Senators to-day in order to ask that they support this gentleman's confirmation for appointment on this commission. In other words. I would want to know his environment; what his intellectual attainments were; whether he would be likely to represent the best interests of the people. Personally I would want to see the gentleman and ask him something about his views, as the committee has done in connection with the Radio Commission and with reference to other commissions. I would not be willing simply to take a list of typewritten indorsements and say, "I accept these; they are all sufficient," especially when we find that the first two indorsements were indorsements that came after Senators were simply asked, "Do you object to this gentleman?" The first two indorsements heading this list were those of Senator BLOCK and Senator McKELLAR, and the only question that was asked was, "Do you object?" But that is not so material. The Senator knows how easy it is to get indorsements. If the people are to get any sort of relief from iniquitous railroad rates which are hanging as a burden around the necks of industry, agriculture, and all the people of this Nation, what they want on the Interstate Commerce Commission and what the people must ask for are men like Eastman, who are independent in spirit and who are not tied down by railroad affiliations or otherwise with the big interests of this country.

My judgment of the Senator is such that I believe he joins me in the desire to know that appointees to the Interstate Commerce Commission are gentlemen of such character and ability that when they go on the commission they will see that the great masses of the people get relief from unjust and exorbitant railroad rates built up on inflated stock values.

Mr. McKELLAR. Mr. President, I just want to say this, that inasmuch as this matter is to go back to the committee, I trust the committee will investigate every question raised by the Senator from Alabama. I think the Senator is "seeing things," but, nevertheless, they are just as important, in the circumstances, as if they were real. Therefore I hope the com-

mittee presided over by the Senator from Michigan will thoroughly investigate in every way, not only in the way pointed out by the Senator from Alabama but in every other way, because I believe that whatever investigation may be made, Judge Jones will be found to meet the requirements of the office.

Mr. COUZENS. I do not object.

The PRESIDENT pro tempore. Without objection, the nomination will be recommitted to the Committee on Interstate Commerce.

UNITED STATES ATTORNEY, DISTRICT OF ALASKA

Mr. JONES. Mr. President, I want to refer to a nomination on the calendar for United States attorney for the District of Alaska, division No. 2, which was confirmed while I was otherwise engaged.

I inquired of the chairman of the Committee on the Judiciary [Mr. NORRIS] whether or not this appointee was a resident of Alaska. The Senator assured me that the appointee had been a resident of Alaska for many years and is at this time an actual resident there.

I will state why I made that inquiry. I want my position in regard to this matter to be plain as a matter of record. I do not seek to interfere with reference to appointments in Alaska. My only concern is that the appointments to fill positions there shall be of bona fide residents of Alaska, just the same as United States attorneys and marshals are bona fide residents of the States where they are appointed.

I simply wanted this to appear in the RECORD. On the assurance that this man is an actual resident of Alaska and has been for several years, knowing nothing about his character, so far as that is concerned, I have no objection to the confirmation.

RECESS

Mr. WATSON. I move that the Senate take a recess until tomorrow, the recess being, under the order previously entered, until 11 o'clock a. m.

The motion was agreed to; and the Senate (at 6 o'clock p. m.), under the order previously entered, took a recess until tomorrow, Thursday, December 19, 1929, at 11 o'clock a. m.

NOMINATION

Executive nomination received by the Senate December 18 (legislative day of December 13), 1929

UNITED STATES MARSHAL

John L. Day, of Oregon, to be United States marshal, district of Oregon, vice Clarence R. Hotchkiss, whose term expired December 16, 1929.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 18 (legislative day of December 13), 1929

COMMISSIONER GENERAL OF IMMIGRATION

Harry E. Hull.

COMMISSIONER OF LABOR STATISTICS

Ethelbert Stewart.

MEMBER UNITED STATES BOARD OF TAX APPEALS

Annabel Matthews.

UNITED STATES MARSHAL

Stillman E. Woodman, district of Maine.

COLLECTOR OF INTERNAL REVENUE

George L. Sheldon, district of Mississippi.

UNITED STATES ATTORNEYS

Julius Harold Hart, district of Alaska, division No. 2.
George J. Hatfield, northern district of California.
William J. Keville, district of Massachusetts.

INTERSTATE COMMERCE COMMISSIONER

Joseph B. Eastman.

PROMOTIONS IN THE NAVY

Archibald L. Parsons to be Chief of Bureau of Yards and Docks, with the rank of rear admiral, for a term of four years.
Herbert W. Underwood to be commander.
Seth A. Shepard to be lieutenant (junior grade).
William C. Sprenger to be assistant naval constructor.
William P. Hart to be chief machinist.
James H. Roden to be chief machinist.
Shelby N. Davis to be chief machinist.
Dennis O. Du Bois to be chief machinist.
William E. DeFoor to be chief machinist.
Charles H. Griffin to be chief machinist.
Halstead S. Covington to be lieutenant.
Ralph E. Patterson to be lieutenant (junior grade).
Anderson Offutt to be lieutenant (junior grade).
Paul J. Dashiell to be professor of mathematics in the Navy.

MARINE CORPS

Col. Hugh Matthews to be quartermaster with the rank of brigadier general.
Hamilton D. South to be colonel.
Oscar R. Cauldwell to be major.
Arnold W. Jacobsen to be major.

POSTMASTERS

ALABAMA

Ethel Liddell, Butler.
James Guttery, Double Springs.
Ella L. Rentz, Gilbertown.
William F. Barnard, Gordo.
Thomas A. Carter, Grove Hill.
Lewis A. Easterly, Hayneville.
Stella M. Shigley, Mentone.
Emma E. Yarbrough, Monroeville.
Ira L. Sharbutt, Vincent.

ILLINOIS

Charles C. Hamilton, Arthur.
Henry E. Petersen, Ashkum.
John P. Kopp, Baldwin.
Carl M. Crowder, Bethany.
Charles A. Cline, Clinton.
Bijah J. Gibson, Crescent City.
Bertha I. Askey, Dakota.
Joseph D. Nutt, East Alton.
Mercy Thornton, Elkville.
William J. Hamilton, Evanston.
Charles W. Meier, Freeport.
Elizabeth Titter, Glen Carbon.
Lewis M. Crow, Grand Tower.
Maurice E. Murrie, Grayslake.
William E. Ford, Karnak.
Harrison T. Berry, Morrison.
Ruth J. Hodge, Mundelein.
William J. Thornton, Nebo.
Edwin L. Griese, Northbrook.
Joseph L. Przyborski, North Chicago.
Robert B. Ritzman, Orangeville.
Mary E. Lister, Percy.
Ralph R. Larkin, Prairie du Rocher.
Emma H. Howe, Ravinia.
Willis J. Huston, Rochelle.
Charles G. Brainard, Round Lake.
William Faster, Strasburg.
John E. Miller, Tamms.
Fred E. Schroeder, Warrensburg.
Jay B. Hollibaugh, Waynesville.

INDIANA

Edith B. Smith, Ambia.
Mary J. Haines, Amboy.
Ivan C. Morgan, Austin.
Ralph C. Thomas, Bluffton.
Carl McKinley, Borden.
John P. Switzer, Bryant.
Fred Y. Wheeler, Crown Point.
Mary W. Lawrence, Earlham.
Charles H. Ruple, Earl Park.
Alfred S. Hess, Gary.
Herbert A. Marsden, Hebron.
Homer E. Hostettler, Henryville.
Edward B. Spohr, Jamestown.
Albert Honehouse, Kouts.
Nellie C. Beard, Larwill.
John G. Sloan, Marengo.
Jesse A. McCluer, Marshall.
Charles H. Callaway, Milton.
Grover H. Oliver, Monroe.
Fred. J. Merline, Notre Dame.
Russell R. Rhodes, Peru.
Loren N. McCloud, Royal Center.
Jacob F. Ruxer, St. Meinrad.
Lowell D. Smith, Sellersburg.
James B. King, Star City.
Russell C. Wood, West Lebanon.
Thomas Jensen, Wheatfield.
William F. Kahler, Winamac.
Edgar Spencer, Wolcott.
Henry Chapman, Woodburn.

IOWA

Frank J. Wuamett, Alvord.
Oltman A. Voogd, Aplington.
Harriette Olsen, Armstrong.
Arthur A. Dingman, Aurelia.
Harry R. Grim, Belle Plaine.
Gayle A. Goodman, Birmingham.
Henry W. Pitstick, Boyden.
Anton C. Jaeger, Brandon.
Wheaton A. MacArthur, Burt.
Gustav H. Hackmann, Clermont.
Clarence A. Worthington, Cumberland.
Ernest T. Greenfield, Douds.
William C. Rolls, Dow City.
Herman Ternes, Dubuque.
Edwin T. Davidson, Duncombe.
James E. Carr, Farmington.
Charles S. Parker, Fayette.
John A. Martin, Floyd.
E. Ray Morrell, Grand River.
Arthur M. Burton, Grinnell.
Walter B. Luke, Hampton.
John H. Nicoll, Harris.
Clyde E. Wheelock, Hartley.
Louis H. Severson, Inwood.
Fred O. Parker, Ireton.
Jesse O. Parker, Keosauqua.
Joseph F. Higgins, Keswick.
Jessaline M. Weinberger, Ledyard.
Irene Goodrich, Lehigh.
Walter E. Prouty, Lockridge.
Thomas E. Halls, Lucas.
Austin C. McKinsey, Maquoketa.
Purley Jennison, Maynard.
John P. McNeill, Melcher.
Roy L. Day, Melrose.
George Kraft, Melvin.
Hugh L. Smith, Montezuma.
Bruce C. Mason, New Market.
Everett H. Moon, New Providence.
Theodore E. Templeton, Paton.
Fred H. Seabury, Pisgah.
Oscar M. Green, Prescott.
George A. Fox, Quimby.
George A. Bennett, Redfield.
Carroll A. Richardson, Renwick.
Matilda Johnson, Ridgeway.
William W. Simkin, Salem.
William H. Moore, Shelby.
George J. Bloxham, Sheldon.
Allan Muilenburg, Sioux Center.
William H. Jones, Sioux City.
Andrew Maland, Slater.
Elsie N. Morgan, Smithland.
William N. Horn, South English.
Arthur T. Briggs, Sutherland.
Mayme L. Petersen, Titonka.
Clifford C. Clardy, Valley Junction.
Howard D. Peckham, Villisca.
B. Frank Jones, Waukee.
Henry A. Falb, West Bend.
Roy O. Kelley, Westside.
Seth B. Cairy, Whittemore.
Pauline W. Hummel, Yale.

LOUISIANA

Charles C. Subra, Convent.
Mamie S. Kiblinger, Jackson.
Mrs. Edwin L. Lafargue, Marksville.
Sallie D. Pitts, Oberlin.
Esther B. Dunn, Slaughter.
Elias C. Leone, Zwolle.

MAINE

Lewis H. Lackee, Addison.
Fred A. Manter, Anson.
M. Estelle Goldthwaite, Biddeford Pool.
Burton A. Hutchinson, Buckfield.
Pearl Danforth, Castine.
Darrell W. Sprague, Corinna.
David H. Smith, Darkharbor.
Julia E. Lufkin, Deer Isle.
George A. Turner, Freedom.
Kathryn E. Cantello, Hebron.
Ella M. Moore, Jackman Station.
Henry H. Walsh, Kennebunk Beach.
Ralph W. Chandler, Machias.
Bertha D. Redonnett, Mount Vernon.
James L. Simpson, North Vassalboro.
George P. Pulsifer, Poland.
Ernest E. Pike, Princeton.
William R. Elliott, Skowhegan.
Ernest L. Bartlett, Thorndike.
Freeman L. Roberts, Vinalhaven.
Edgar J. Brown, Waterville.

MARYLAND

Howard F. Owens, Betterton.
Edwin S. Worthington, Darlington.
Alfred E. Williamson, Laurel.
Charles Roemer, jr., Owings Mills.

MINNESOTA

John Gaida, Browerville.
Clarence O. Rustad, Kerkhoven.
Martha Kleppe, Newfolden.

MISSISSIPPI

Quinn E. Mattox, Fulton.
Herbert Feaster, Greenwood.
Maude L. James, Lorman.

MISSOURI

Margaret E. Matson, Barnard.
Samuel F. Wegener, Blackburn.
Henry C. Oehler, Bismarck.
Constant A. Larson, Bucklin.
Claude H. McNay, Butler.
Lea K. Glines, Cainsville.
Walter A. Brownfield, Calhoun.
Earl M. Mayhew, Callao.
Edward Burkhardt, Chesterfield.
Edgar H. Intelmann, Cole Camp.
Henry E. Martens, Concordia.
Charles E. Leach, Deepwater.
Abraham L. McElvain, Elmo.
Edward Beall, Eolia.
John W. McGee, Ewing.
Robert C. Wommack, Fair Grove.
Frederick M. Harrison, Gallatin.
Henry A. Scott, Gilman City.
Thomas E. Sparks, Holliday.
Chester D. Green, Hume.
Harry F. Gurney, Kidder.
Jacob B. Marshall, La Monte.
Enoch W. Brewer, McFall.
Charles L. Farrar, Macon.
Nathan J. Rowan, Meta.
John Kerr, Newburg.
Robert L. Jones, New Cambria.
Fred E. Hart, Norwood.
Earl A. Blakely, Revere.
William M. Johns, Sedalia.
Washington D. Barker, Shelbina.
George W. Hendrickson, Springfield.
Joseph O. Bassett, Vienna.

MONTANA

Hazel F. McKinnon, Bearcreek.
Emma E. Waddell, Custer.
Thomas Hirst, Deer Lodge.
William H. Jenkinson, Fort Benton.
George W. Edkins, Glacier Park.
George S. Haynes, Judith Gap.
Robert M. Fry, Park City.
Archie H. Neal, Philipsburg.
Clark R. Northrop, Red Lodge.
Jean W. Albers, Redstone.
Harry H. Goble, St. Ignatius.
William A. Francis, Virginia City.
Ray E. Willey, Wisdom.
Jessie Long, Worden.

NEW JERSEY

Charles R. Bassett, Bloomsbury.
David Hastings, Boundbrook.
Charles B. Ogden, Butler.
Grace E. Cowell, Convent Station.
James E. Vanderhoof, Denville.
Alice A. Ayres, Island Heights.
Annie L. Quint, Metuchen.
Ira L. Longcor, Morris Plains.
James A. Morrison, New Brunswick.
Richard J. Rogers, Rumson.

Lurelda Sooy, Somers Point.
Louis A. Thievon, Stirling.
William C. Swackhamer, White House Station.

NEW YORK

Jessie S. McBride, Rensselaer Falls.

NORTH CAROLINA

Baxter Biggerstaff, Bostic.
Hester L. Dorsett, Spencer.

OREGON

John B. Schaefer, Linnton.
William J. Warner, Medford.
Emma O. Schneider, Myrtle Point.
Volney E. Lee, North Powder.
Nellie P. Satchwell, Shedd.
Emma B. Sloper, Stayton.

PENNSYLVANIA

Harry H. Fearon, Beech Creek.
William L. Hendricks, Bolivar.
Mary W. Ritner, Bruin.
Frank O. Hood, Cambridge Springs.
Elmer L. Russell, Cokeburg.
Henry C. Boyd, Finleyville.
Marshall M. Smith, Gaines.
Harvey D. Klingensmith, Grapeville.
Robert D. Mitchell, Herminie.
Walter R. Miller, Liberty.
John J. Herbst, McKees Rocks.
Rebecca Campbell, Midway.
Charles A. Swanson, Morris Run.
James G. Cook, New Alexandria.
Lottie Tueche, New Eagle.
Floyd R. Paris, Ralston.
Fred W. Allison, Roscoe.
Millard F. McCullough, Seward.
Charles F. Abel, Springdale.
Ernest D. Mallinee, Townville.
Joseph Straka, Universal.
Della Elder, Vestaburg.
Thomas J. Langfitt, Washington.
Charles A. McDannell, Wattsburg.
Alvin L. Wenzel, Webster.

VIRGINIA

Ira L. Mullins, Grundy.
Henry D. Gray, Middleburg.

WASHINGTON

Leonard McCleary, McCleary.
Etta R. Harkins, Manette.
Kathryn Reichert, Orting.
Benjamin G. Brown, Ridgefield.
Serena D. Vinson, Skamokawa.
Dow R. Hughes, Yelm.

WISCONSIN

Louis W. Kuhaupt, Allenton.
Lewis L. Nelson, jr., Amherst Junction.
Leonard D. Perry, Cable.
Edward G. Carter, Drummond.
Lila O. Burton, Eagle.
Arthur M. Howe, Elk Mound.
Paul L. Fugina, Fountain City.
George F. Sherburne, Fremont.
Marion L. Kutchin, Green Lake.
Roy L. Thompson, Hancock.
Robert L. Zimmerman, Holcombe.
Marie L. Schilleman, Lac du Flambeau.
Charles I. Larson, Mason.
Freeman E. Boyer, Mattoon.
Lewis A. Gehr, Mercer.
Herman A. Krueger, Merrill.
George Henry, Mount Calvary.
Mary G. Helke, Nekoosa.
James L. Ring, Osseo.
Howard B. Hoyt, Plum City.
Orlando M. Eastman, Saukville.
Nicholas Lucius, jr., Solon Springs.
Roy D. Larrieu, Spring Valley.
William J. Winters, Tripoli.
John H. Bunker, Turtle Lake.
Charles W. Eagan, Wautoma.

ARKANSAS

Thomas D. Peck, Mammoth Spring.
Oscar L. West, Shirley.

CALIFORNIA

Albert Norris, Alvarado.
Earl Van Gorden, Cambria.
Stanton K. Helsley, Ceres.
John A. Perry, jr., Chowchilla.
Roscoe J. Johnson, Corona.
Ida M. Fink, Crows Landing.
Emma Dodge, Danville.
Brock Dickie, Dixon.
James E. Van Matre, Downey.
May Brown, Earlimart.
Laura W. McNeil, El Cerrito.
Claude D. Tribble, Elk Grove.
John C. Neblett, Elsinore.
Tracy H. McPherson, Escalon.
Bessie L. Rogers, Esparto.
Helen D. Weir, Fairfield.
Bert Woodbury, Fall Brook.
Bertha V. Eaton, Florin.
George W. Turner, Fresno.
Van R. Majors, Heber.
Olive I. Caplinger, Hetch Hetchy Junction.
Margaret Allen, Indio.
Brayton S. Norton, Laguna Beach.
David W. Morris, Modesto.
George V. Beane, Mojave.
Matie E. Bole, Newark.
Clara C. King, Ojai.
William O. Hart, Orange.
William L. Robbins, Orange Cove.
David I. Roth, Orosi.
Genevieve Frahm, Palmdale.
Edna B. Hudson, Perris.
Elizabeth A. Follett, Pixley.
James F. Wheat, Redlands.
Josephine Purcell, Represa.
Fred Herring, Rio Linda.
Frederick C. Huntemann, Ripon.
Ashley L. Smith, Ryde
Frank J. Klindera, Tipton.
Archie R. Beckes, Wasco.
Martha A. Smith, Winton.

COLORADO

John W. Emmerson, Canon City.
George W. Karn, Granada.
Lewis M. Markham, Lamar.
James S. Grisham, Trinidad.

FLORIDA

Ferrel D. Smith, Lakeland.

IDAHO

Roy L. Sutcliffe, Arco.

ILLINOIS

Anna C. Krans, Altona.
Nancy Jamison, Biggsville.
James E. Voorhees, Bushnell.
Mae E. Laughery, Cuba.
Nellie T. Lindstrom, Fairview.
William C. Borger, Freeburg.
James F. Mill, Hillsdale.
Leslie K. Valentine, Hinckley.
Tena S. Ecklund, Lamoille.
George F. Dickson, Little York.
Harry R. Smith, Manlius.
Ellis H. Jones, Minooka.
Harvie D. Harris, New Boston.
Albert S. Tavenner, Polo.
Willis M. Hoag, Princeville.
Edna G. Mallette, Reynolds.
Harry L. Johnson, Rockport.
Elijah Williams, Tonica.
Arthur W. Shinn, Toulon.
Frank Gandy, Ullin.
Hervey E. Broaddus, Varna.

IOWA

Carl F. Bechtel, Lansing.
George W. Graham, Oakville.
Alva V. Gillette, Randolph.

KANSAS

Pitt H. Halleck, Abilene.
Rollin J. Conderman, Chetopa.
Paul H. Quinn, Geuda Springs.
William B. Trembley, Kansas City.

John E. Scruggs, Kincaid.
Ray Bartlett, La Harpe.
William S. Lyman, Lewis.
Lida Zimmerman, Otis.
Walter H. Polley, Republic.
James R. Robison, Riley.
Fred W. Arnold, Vermillion.
Louis H. Wapler, Wakefield.

LOUISIANA

John S. Pickett, Fisher.
Marian E. Thomas, Grand Cane.
Ida H. Boatner, Rochelle.
William S. Montgomery, Saline.

MAINE

Everett W. Gamage, South Bristol.

MASSACHUSETTS

William J. Sullivan, North Reading.

MICHIGAN

William E. Lewis, Hart.

MINNESOTA

Thorwald O. Westby, Avoca.
John N. Peterson, Beltrami.
Arthur B. Paul, Big Falls.
Elmer E. Putnam, Big Lake.
Edward H. Hebert, Bricelyn.
Mabel L. Markham, Clear Lake.
Benjamin Baker, Campbell.
Frank H. Nichols, Comfrey.
Louis A. Dietz, Easton.
John Lohn, Fosston.
Dwight C. Jarchow, Harris.
Elmer W. Thompson, Lismore.
Charles S. Jameson, Littlefork.
Ernest G. Haymaker, Motley.
Arvid J. Lindgren, Orr.
Lee M. Bennett, Pillager.
Minnie W. Hines, Roosevelt.
Ella S. Engelsen, Storden.
Gertrude A. Muske, Swanville.
August W. Petrich, Vernon Center.
Mathias J. Olson, Wolverton.

MISSISSPPI

Ross W. Burton, Alligator.
Cecil D. Chadwick, Walnut Grove.

MISSOURI

Robert M. Tirmenstein, Benton.
Henry H. Haas, Cape Girardeau.
Orville J. White, Fairfax.
S. Harvey Ramsey, Flat River.
Edward Baumgartner, Linn.

NEBRASKA

William E. Flory, Carleton.
Lulu Woodbury, Center.
Royal H. Stapleton, Doniphan.

NEW YORK

Fenner J. Rich, Altmar.
Josephine G. Loomis, Ashville.
Mary J. O'Brien, Bedford.
Walter L. Moe, Burke.
Edward J. Monroe, Croghan.
John K. Lathrop, Minnewaska.
Jay Farrier, Oneida.
Owen W. House, Parish.
Sheldon G. Stratton, Sackets Harbor.
James E. McKee, Waddington.

NORTH CAROLINA

Carl McLean, Laurinburg.
William M. Liles, Lilesville.
William J. Flowers, Mount Olive.
Raphael M. Rice, Oteen.
Ollie C. McGuire, Zebulon.

NORTH DAKOTA

Clara J. Leet, Brocket.
Albert E. Thacker, Hamilton.
Carl Quanbeck, McVille.
Bennie M. Burreson, Pekin.
John J. Mullett, Perth.
Donald G. McIntosh, St. Thomas.

OHIO

Fred C. Troxel, Apple Creek.
William H. Neiberg, Buckeye Lake.
Robert H. Brown, Clyde.
John W. Shisler, Dalton.
Myron C. Cox, Fremont.
George H. Meek, Lakeside.
Sanford E. Goodell, Luckey.
Crayton E. Womer, Republic.
Henry F. Longenecker, Rittman.
Charles B. Saxby, Weston.
Frank B. James, Willard.

OKLAHOMA

Harry S. Magill, Garber.
Odessa H. Willis, Pittsburg.

SOUTH DAKOTA

Florence F. Cheatham, Mellette.
Nora Sunne, Wallace.

TENNESSEE

Clifford B. Perkins, Roan Mountain.
Mettie M. Boston, Rutledge.
John L. Goin, Tazewell.

TEXAS

John H. Wilson, Quanah.

UTAH

Agnes Harrison, Standardville.

WEST VIRGINIA

Russell B. Gibson, Albright.
Lelia C. Martindale, Ansted.
James H. McComas, Barboursville.
Freda W. Mason, Bayard.
Alma S. Borror, Belle.
Milton B. Stafford, Braeholm.
Samuel L. Clark, Cass.
Eulalie B. Wheeler, Elkhorn.
George W. Sites, Freeman.
John E. Pierson, Gassaway.
Raymond L. Butler, Hastings.
Robert K. Pearrell, Hedgesville.
Rufus B. Scott, Hemphill.
Charles A. Roberts, jr., Hendricks.
Chester L. Blevins, Herndon.
Lida Steinke, Iaeger.
Juniata Amos, Leon.
William P. Jett, Lost Creek.
William M. Chambers, Maben.
Frederick E. Bletner, Mason.
Mary I. Baker, Ranson.
Ulysses S. Jarrett, St. Albans.
Ralph C. Morton, Sharples.
William H. Young, Union.
Virginia Cook, Ward.

WYOMING

William E. Lloyd, Jackson.
Carl Springer, Salt Creek.

HOUSE OF REPRESENTATIVES

WEDNESDAY, *December 18, 1929*

The House met at 12 o'clock noon.

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

Our Lord, our life, and yet our Father, hear us as we renew our vows. To devote ourselves to the task of obeying Thy will and precepts and to serve our country with fidelity and skill—this is our prayer. To enter into coveted relationship with Thee is our desire. We would recall Thy word: "Bring ye all the tithes into the storehouse." Inspire us to bring to this Chamber, memorable in our Nation's history, our tithes of time, tithes of energy, and tithes of understanding; thus may we prove and praise Thee. May we have the heart of sympathy, love, and helpfulness for all who come our way. In the name of the world's Saviour. Amen.

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on the following date