Congressional Record

PROCEEDINGS AND DEBATES OF THE SEVENTY-FIRST CONGRESS
SECOND SESSION

SENATE

THURSDAY, *March 20, 1930*

(Legislative day of Monday, January 6, 1930)

The Senate met at 11 o'clock a. m., 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	Frazier	Kendrick	Shortridge
Ashurst	George	Keyes	Simmons
Baird	Glass	La Follette	Smoot
Barkley	Glenn	McCulloch	Steck
Bingham	Goff	McMaster	Steiwer
Black	Goldsborough	McNary	Stephens
Blaine	Gould	Metcalf	Sullivan
Blease	Greene	Moses	Swanson
Borah	Grundy	Norbeck	Thomas, Idaho
Bratton	Hale	Norris	Thomas, Okla.
Brookhart	Harris	Nye	Townsend
Broussard	Harrison	Oddie	Trammell
Capper	Hastings	Overman	Tydings
Caraway	Hatfield	Patterson	Vandenberg
Connally	Hawes	Phipps	Wagner
Copeland	Hayden	Pine	Walcott
Couzens	Hebert	Pittman	Walsh, Mass.
Cutting	Heflin	Ransdell	Walsh, Mont.
Dale	Howell	Robinson, Ind.	Waterman
Dill	Johnson	Robsion, Ky.	Watson
Fess	Jones	Schall	Wheeler
Fletcher	Kean	Sheppard	

Mr. SHEPPARD. The junior Senator from Utah [Mr. KING] is necessarily detained from the Senate by illness. I will let this announcement stand for the day.

I also desire to announce the necessary absence of the Senator from Arkansas [Mr. ROBINSON] and the Senator from Pennsylvania [Mr. REED], who are delegates from the United States to the London Naval Conference.

I also wish to announce that the senior Senator from Tennessee [Mr. MCKELLAR] and the junior Senator from Tennessee [Mr. BROCK] are both necessarily detained from the Senate on account of illness.

Mr. SCHALL. My colleague [Mr. SHIPSTEAD] is unavoidably absent. I ask that this announcement may stand for the day.

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

DIPLOMATIC IMMUNITY

Mr. BLEASE. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial appearing in yesterday's Evening Star and two Senate concurrent resolutions, one submitted on April 18, 1929, and the other on April 23, 1929, by myself.

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

The editorial and concurrent resolutions are as follows:

[From the Evening Star, Washington, D. C., Wednesday, March 19, 1930]

DIPLOMATIC IMMUNITY

The immunity granted to members of the diplomatic legations and embassies at this and other capitals is a protection against annoyance and humiliation, and not a cloak to cover offenses committed against the laws of the land. Were it not for this practice, which is universal among the civilized nations, the diplomatic representatives and their aides might be endangered and seriously hampered in the discharge of their duties to their own countries. Unfortunately the immunity privilege is at times invoked to spare offenders from the consequences of their own misconduct.

The very fact that members of the diplomatic service, on duty in other countries than their own, are thus protected from the laws of the land in which they are engaged should cause them to be most scrupulously careful in their observance, in the spirit and the letter. For with immunity goes obligation, greater even than that which rests upon the citizens themselves.

A case has just come to point in this city, which, as far as the facts are now developed, calls for the application of the higher law of diplomatic guest responsibility. An attaché of one of the embassies is accused of driving his motor car so recklessly and in such disregard of the rules and the signals that he caused the desperate, perhaps fatal, injury of a young man with whom he collided. He denies such conduct. Police research has brought forth evidence in his disfavor. Incidentally the chief of police has recently cited the fact that during some 13 years no less than 37 representatives of foreign embassies and legations in Washington have been stopped by police officers and warned of the violation of various traffic rules, particularly driving while under the influence of liquor.

If in this present instance it is established that the accident was due to the reckless driving of the attaché he should be punished by removal from this station. That can be effected only through the action of his chief, with or without the suggestion of the State Department, which lacks direct jurisdiction over the personnel of the legations and embassies. It is, indeed, to be expected that such action will, in case of proof of responsibility, be taken by the head of the diplomatic delegation without any prompting.

The misconduct of any member of a diplomatic mission, legation, or embassy reflects discredit upon the mission and upon the country from which it is accredited. Service at a foreign capital, in any capacity, calls for the most scrupulous respect for the customs and statutes of that land, for the avoidance of any offense whatever, out of regard at least for the laws of hospitality.

Senate Concurrent Resolution 2

April 18, 1929, Mr. BLEASE submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

Whereas it has come to the knowledge of the American public that the embassies, through foreign ambassadors, ministers, consuls, secretaries, attachés, and clerks, have received and are continuously receiving whiskies, wines, beers, and other intoxicating drinks and are serving them at their private meals and at quasi public and public dinners and entertainments; and

Whereas the eighteenth amendment to the Constitution of the United States prohibits such conduct, and the laws of the United States prohibit the possession of, the transporting, the selling, or the serving of such drinks as are intoxicating, either in private homes or elsewhere; and

Whereas it has become a scandal in view of the publicity given to the same as to the sale of whisky by parties connected with certain embassies and the drinking in public of such parties, the reckless driving of automobiles while drunk, and other infractions of the law; and

Whereas such conduct on behalf of foreign representatives is setting a bad example to the younger people of this country and creating among them a disrespect for the Constitution and laws of our country: Therefore, be it

Resolved by the Senate (the House of Representative concurring), That each and every foreign nation be requested to send to this country as their representative only persons who are willing to abide by the Constitution and laws of this country, and who will not serve intoxicating liquors to any American citizen.

SEC. 2. That all public officials of the United States be requested not to drink intoxicating liquors, either in public or in private, with foreign representatives.

SEC. 3. That the President of the United States and other officials charged with enforcement of the laws be respectfully requested to forward a copy of these resolutions to all of the foreign countries who are represented in this country, together with the request that they see that their representatives to this country discontinue such practices and obey the laws of this country or else withdraw such representatives and send those who will obey.

SEC. 4. That the Secretary of the Senate is directed, upon the adoption of these resolutions by the Senate and the House of Representatives, to forward to the representative of each foreign government so represented a copy of these resolutions, together with the request that they them-

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selves comply therewith and that they instruct their subordinates to comply with the laws of this country or else to leave it.

SEC. 5. That the President of the United States be respectfully requested to instruct all representatives of the American Government in foreign countries not to serve intoxicating liquors in the American embassies or consulates.

Senate Concurrent Resolution 7

April 23, 1929, Mr. BLEASE submitted the following concurrent resolution, which was referred to the Committee on the Judiciary:

Whereas Wilson on International Law, page 170; and volume 3, Phillimore, International Law, page 160 and the following; and others set forth: "It is now generally accepted that diplomatic representatives are exempt from prosecution and punishment for violation of criminal laws. This does not free him from the obligation to respect the law enacted to insure the well-being of the state in which he is sojourning, but removes him from the legal authority of the state. For failure to observe the law a diplomat may be requested to leave a state or, in an extreme case, may be expelled"; and

Whereas Wilson on International Law, page 171, and other authorities on international law lay down the doctrine that: "Diplomatic representatives are also exempt from the ordinary police regulations. This exemption is not to be construed as a license to disregard the regulations prescribed for the safety of the community. The diplomatic officer is supposed to be carefully observant of the law of the state in which he is sojourning in order that his presence may be acceptable and his service may be most effective, because free from friction. A diplomatic representative who disregards local police regulations, as by driving a vehicle at a speed beyond the limits prescribed to insure public safety, may be restrained, though he may not be punished"; and

Whereas Wilson on International Law, pages 171 and 172, and 4 Moore, No. 669, and others hold that, "In considering the immunities of diplomatic officers, it is important to draw a distinction, which, it is believed, has not usually been noticed, between measures of punishment and measures of prevention. The theory of diplomatic immunity is, not that the diplomatic officer is freed from the restraints of the law and exempt from the duty of observing them, but only that he can not be punished for his failure to respect them. The punitive power of the state can not be directly enforced against him. It will hardly be denied, however, that it is his duty to respect the laws of the country in which he resides, and that he may, in many conceivable cases be prevented from doing unlawful acts, for which, if he were allowed to commit them, he could not be punished. This distinction is peculiarly applicable to police regulations made for the purpose of assuring the public health and safety"; and

Whereas the eighteenth amendment to the Constitution of the United States, which is the supreme law of the land, prohibits the importation into and the transportation within the United States and all territory subject to the jurisdiction thereof, of intoxicating liquors; and

Whereas the national prohibition laws have been enacted to carry the same into effect for the purpose of assuring the public health, morals, and safety of the people of this country; and

Whereas it is a matter of common knowledge that ambassadors, diplomats, consuls, and other representatives, agents, and servants of foreign governments are continuously importing and transporting huge quantities of intoxicating liquors into and within this country and are using the same in violation of the laws thereof in the various embassies, legations, consulates, and other places in the United States occupied by the representatives of foreign governments; and

Whereas it is likewise a matter of common knowledge that various public officials and departments of this Government are openly aiding, abetting, assisting, and protecting the said ambassadors, diplomats, consuls, and other representatives, agents, and servants of foreign governments in the importation and transportation of intoxicating liquors into and within this country, and their use therein, all in violation of the laws thereof: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That all public officials of the United States and departments of the Government thereof be, and they are hereby, requested and directed not to aid, abet, assist, or protect the importation into or the transportation or use within the United States and all territory subject to the jurisdiction thereof, including embassies, legations, and all places occupied by the representatives of foreign governments, of intoxicating liquors by any person or persons whomsoever—ambassadors, diplomats, consuls, representatives, agents, or servants of foreign governments, or otherwise.

Resolved further, That all public officials of the United States charged with the enforcement of the laws thereof do forthwith seek to enjoin and restrain the further importation into, and possession and use within the United States and all territory subject to the jurisdiction thereof, including embassies, legations, consulates, and all places occupied by the representatives of foreign governments, of intoxicating liquors by any person or persons whomsoever, native or foreign, ambassadors, diplomats, consuls, representatives, agents, and servants of foreign governments or otherwise.

Resolved further, That all public officials of the United States charged with the enforcement of the laws thereof do forthwith seek to enjoin and restrain the hiring, counseling, or procuring of any person or persons, as agents, servant, or otherwise, to aid, abet, or assist the importation into or the transportation or use within the United States and all territory subject to the jurisdiction thereof, including embassies, legations, and all places occupied by the representatives of foreign governments, of intoxicating liquors, by any person or persons, whomsoever, including ambassadors, diplomats, and all representatives of foreign governments.

Resolved further, That for failure to respect and observe any and all laws of the United States that each ambassador, diplomat, consul, or other representative, agent, or servant of a foreign government violating the same first be requested to leave the United States, and upon refusal, neglect, or failure to do so, that he shall be expelled.

Resolved further, That copies of this resolution, upon adoption, be forwarded by the Secretary of the Senate to the President of the United States, the various chief officials of the departments of this Government, and to each and every ambassador, minister, diplomat, consul, and representative of a foreign government in the United States.

PETITIONS AND MEMORIALS

Mr. BROOKHART presented a petition of sundry World War veterans at the United States Veterans' Hospital, Lake City, Fla., praying for the passage of the so-called Brookhart bill, permitting ex-service men to realize cash on their adjusted service certificates, which was referred to the Committee on Finance.

Mr. NORBECK presented the petition of George F. English and 78 other citizens of New Underwood, S. Dak., praying for the passage of legislation granting increased pensions to veterans of the war with Spain, which was ordered to lie on the table.

He also presented the petition of C. H. Roney, of Oakes, and approximately 105 other citizens, all in the State of North Dakota, praying that certain changes be made in the administration of the Federal farm loan act, which was referred to the Committee on Banking and Currency.

Mr. WALCOTT presented a resolution of the executive committee of the American Legion, Department of Connecticut, at Hartford, Conn., approving the principle of civil rehabilitation, and referring to the bill (S. 3340) to amend an act entitled "An act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment," approved June 2, 1920, as amended, which was referred to the Committee on Education and Labor.

He also presented resolutions adopted by the Connecticut League of Women Voters, of New Haven; the executive board of the Connecticut League of Women Voters, of Hartford; the Ridgefield League of Women Voters, of Ridgefield; and the New London League of Women Voters, of New London, all in the State of Connecticut, favoring the passage of the so-called Jones-Cooper bill, being the bill (S. 255) for the promotion of the health and welfare of mothers and infants, and for other purposes, which were referred to the Committee on Commerce.

He also presented resolutions adopted by the common councils of the cities of Meriden and New Britain, Conn., favoring the passage of legislation dedicating October 11 of each year as General Pulaski's memorial day, for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski, Revolutionary War hero, which were referred to the Committee on the Library.

He also presented a resolution adopted by Laurel Council, No. 55, Sons and Daughters of Liberty, at Torrington, Conn., favoring the prompt passage of legislation placing all the countries of North and South America under immigration quota restriction, while preserving the provisions of the present law which excludes as permanent immigrants persons not eligible to citizenship, which was referred to the Committee on Immigration.

He also presented the petition of members of General Israel Putnam Unit, No. 788, of the Steuben Society of America, at Greenwich, Conn., praying for the passage of the joint resolution (S. J. Res. 125) authorizing and directing the Postmaster General to design and issue a special postage stamp commemorating the two hundredth anniversary of the birth of Baron Frederick William von Steuben, Inspector General of the Army of the United States under Washington, which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Ridgefield (Conn.) League of Women Voters, favoring support for the present London Naval Conference in a definite reduction of arms, and also for an agreement for conference of the nations before an impending war, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the board of directors of the Young Women's Christian Association, of Bridgeport, Conn., favoring the prompt ratification of the proposed World Court protocol, which was referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the executive committee of the Connecticut Chamber of Commerce (Inc.), Hartford, Conn., indorsing the principles set forth in the report of the Interdepartmental Pay Board dated July 19, 1929, in so far as they relate to the betterment of living conditions and the retention in all branches of military service of the proper type of officers, which was referred to the Committee on Military Affairs.

He also presented the petition of General Israel Putnam Unit, No. 788, of the Steuben Society of America, at Greenwich, Conn., praying for the passage of the bill (S. 2858) to provide for the erection at Weiser Park, near Womelsdorf, Berks County, Pa., of a memorial to commemorate the services of Col. Conrad Weiser (1696–1760), Indian interpreter, colonial patriot, and friend of George Washington, which was referred to the Committee on Military Affairs.

He also presented the petition of General Israel Putnam Unit, No. 788, of the Steuben Society of America, at Greenwich, Conn., praying for the passage of the so-called Norris resolution, being the resolution (S. J. Res. 3) proposing an amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress and fixing the time of the assembling of Congress, which was ordered to lie on the table.

He also presented a letter in the nature of a petition from the National Association of Letter Carriers, of Danbury, Conn., praying for the passage of the so-called Dale-Lehlbach retirement bill and the La Follette-Kendall shorter Saturday workday bill, which was ordered to lie on the table.

He also presented a resolution adopted at the annual meeting and banquet of the State Guard Association at Waterbury, Conn., favoring the passage of legislation granting increased pensions to veterans of the war with Spain and their dependents, which was ordered to lie on the table.

He also presented a resolution adopted by the Common Council of the City of New Britain, Conn., favoring the passage of legislation granting increased pensions to veterans of the war with Spain, which was ordered to lie on the table.

He also presented petitions of sundry citizens of Bristol, Conn., praying for the passage of legislation granting increased pensions to veterans of the war with Spain, which were ordered to lie on the table.

He also presented a resolution adopted by Mattatuck Chapter, Sons of the American Revolution, of Waterbury, Conn., favoring the passage of legislation to exempt from taxation the national headquarters building of the National Society of the Sons of the American Revolution, located at No. 1227 Sixteenth Street NW., Washington, D. C., which was referred to the Committee on Finance.

He also presented papers in the nature of petitions from Michael J. Comcowich Post, No. 597, of Ansonia; of Lacroix Murdock Post, No. 585, of Meriden; of Stiles D. Woodruff Post, No. 1684, of West Haven; and of A. E. F. Post, No. 320, of New Haven, all of the Veterans of Foreign Wars, in the State of Connecticut, praying for the passage of the so-called Swick bill (H. R. 9146) providing relief for disabled World War veterans not receiving compensation under existing law, which were referred to the Committee on Pensions.

He also presented a paper in the nature of a petition from Stamford Chapter, Daughters of the American Revolution, of Stamford, Conn., praying for the passage of the so-called Hughes bill, being the bill (H. R. 3397) to amend section 200 of the World War veterans' act of 1924, as amended, which was referred to the Committee on Finance.

REPORTS OF COMMITTEES

Mr. FESS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the concurrent resolution (S. Con. Res. 26) authorizing the holding of hearings by the joint committee to investigate the pay and allowances of personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, reported it without amendment.

Mr. CAPPER, from the Committee on the District of Columbia, to which was referred the bill (H. R. 7701) to authorize fraternal and benevolent corporations heretofore created by special act of Congress to divide and separate the insurance activities from the fraternal activities by an act of its supreme legislative body, subject to the approval of the superintendent of insurance of the District of Columbia, reported it without amendment.

Mr. DALE, from the Committee on Commerce, to which were referred the following bills, reported them severally with amendments and submitted reports thereon:

A bill (S. 3607) granting the consent of Congress to the State of New York to construct, maintain, and operate a free State highway bridge across the Allegheny River at Red House, N. Y. (Rept. No. 277);

A bill (S. 3741) to extend the times for commencing and completing the construction of a bridge across the South Fork of the Cumberland River at or near Burnside, Pulaski County, Ky. (Rept. No. 278);

A bill (S. 3742) to extend the times for commencing and completing the construction of a bridge across the Cumberland River at or near Burnside, Pulaski County, Ky. (Rept. No. 279);

A bill (S. 3743) to extend the times for commencing and completing the construction of a bridge across the Cumberland River at or near Canton, Ky. (Rept. No. 280); and

A bill (S. 3744) to extend the times for commencing and completing the construction of a bridge across the Tennessee River at or near Eggners Ferry, Ky. (Rept. No. 281).

Mr. DALE also, from the Committee on Commerce, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

A bill (S. 3618) granting the consent of Congress to rebuild, reconstruct, maintain, and operate the existing railroad bridge across the Cumberland River, near the town of Burnside, in the State of Kentucky (Rept. No. 282);

A bill (S. 3714) to extend the times for commencing and completing the construction of a bridge across the Wabash River at Mount Carmel, Ill. (Rept. No. 283); and

A bill (S. 3746) to extend the times for commencing and completing the construction of a bridge across the Ohio River at or near Maysville, Ky. (Rept. No. 284).

Mr. McMASTER, from the Committee on Indian Affairs, to which was referred the bill (S. 3359) to authorize a per capita payment to the Pine Ridge Sioux Indians of South Dakota, reported it with an amendment and submitted a report (No. 285) thereon.

H. U. CRUMIT

Mr. FESS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate Resolution No. 228, submitted by Mr. GOFF on the 8th instant, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Sergeant at Arms of the Senate be, and he hereby is, authorized and directed to appoint H. U. Crumit a messenger, who shall be paid at the rate of $2,040 per annum from the contingent fund of the Senate until otherwise provided by law.

HANNAH F. PARKER

Mr. FESS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate Resolution 236, submitted by Mr. HALE on the 14th instant, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Hannah F. Parker, widow of Ferd W. Parker, late the keeper of stationery of the Senate, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

HEARINGS BEFORE THE LIBRARY COMMITTEE

Mr. FESS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate Resolution 238, submitted by him on the 18th instant, rereported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

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

MIRIAM R. DINGLEY

Mr. FESS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate Resolution 240, submitted by Mr. SMOOT on the 19th instant, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Miriam R.

Dingley, widow of Edward Nelson Dingley, late the expert for the majority of the Committee on Finance, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

WILLIAM B. WILSON AND WILLIAM S. VARE

Mr. FESS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate Resolution 239, reported on the 18th instant by Mr. SHORTRIDGE from the Committee on Privileges and Elections, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay out of the appropriation for expenses of inquiries and investigations, contingent fund of the Senate, fiscal year 1929, to William B. Wilson and William S. Vare, $25,000 each in full settlement of all claims and demands of any and every kind whatsoever on account of their contest for a seat in the United States Senate resulting from the election held in the State of Pennsylvania in 1926, including fees and expenses of counsel and salaries of clerks and all other employees.

MARY J. JEFFRESS

Mr. FESS, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred Senate Resolution 241, submitted by Mr. WATSON on the 18th instant, reported it favorably without amendment, and it was considered by unanimous consent and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate to Mary J. Jeffress, daughter of Ollie Jeffress, late a laborer under the supervision of the Sergeant at Arms, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

MONUMENT TO ORVILLE AND WILBUR WRIGHT

Mr. FESS. Mr. President, from the Committee on the Library I report back favorably without amendment the joint resolution (S. J. Res. 143) creating a commission to prepare plans for a monument in the city of Washington commemorating the achievements of Orville and Wilbur Wright in the development of aviation, and I ask unanimous consent for its immediate consideration.

Mr. OVERMAN. Mr. President, may I ask the Senator from Ohio what the joint resolution proposes?

Mr. FESS. It proposes the appointment of a commission, composed of the Architect of the Capitol, the chairmen and ranking members of the Committee on the Library of the Senate and the House, together with the members of the Planning Commission, to study plans for the memorial.

Mr. OVERMAN. Has anything been done with reference to the plans previously submitted?

Mr. FESS. No. The Kitty Hawk matter is closed.

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

There being no objection, the joint resolution was considered as in Committee of the Whole, and it was read, as follows:

Resolved, etc., That there is hereby created a commission to be known as the "Wright Memorial Commission," to be composed of nine members as follows: The chairman and the ranking minority member of the Senate Committee on the Library, the chairman and the ranking minority member of the House Committee on the Library, the Architect of the Capitol, the Director of Public Buildings and Public Parks of the National Capital, and the Assistant Secretaries in Charge of Aeronautics in the War Department, the Navy Department, and the Department of Commerce. The commission shall make an investigation and study with a view to the erection of a suitable monument in the city of Washington to commemorate the achievements of Orville and Wilbur Wright in the development of aviation. The commission shall report to Congress as soon as practicable, but in no event later than March 3, 1931, the result of its investigation and study, and shall make such recommendation as to the design and site for the monument as it may feel advisable: *Provided,* That the site and design for the monument shall have the approval of the National Commission of Fine Arts.

SEC. 2. There is hereby authorized to be appropriated the sum of $10,000, or so much thereof as may be necessary to carry out the purpose of this resolution, including the payment of premiums to the successful competitors, if a competition is held, and travel expenses for the members of the commission and its employees. Appropriations made under authority of this section shall be disbursed by the disbursing officer of the Department of the Interior upon vouchers approved by the chairman of the commission. The commission shall designate its disbursing officer and expenditures shall be allowed and paid upon vouchers approved by the chairman of the commission.

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

REPORT OF POSTAL NOMINATIONS

Mr. PHIPPS, as in open executive session, from the Committee on Post Offices and Post Roads, reported sundry post-office nominations, which were placed on the Executive Calendar.

BILLS INTRODUCED

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

By Mr. SMOOT:

A bill (S. 3970) authorizing the Smithsonian Institution to extend the Natural History Building and authorizing an appropriation therefor, and for other purposes; to the Committee on Public Buildings and Grounds.

By Mr. McMASTER:

A bill (S. 3971) to authorize an appropriation for construction of quarters at Fort Meade, S. Dak.; to the Committee on Military Affairs.

A bill (S. 3972) for the relief of certain Indians whose financial resources are insufficient for their adequate support; to the Committee on Indian Affairs.

By Mr. GOFF:

A bill (S. 3973) granting an increase of pension to Maggie M. Phillips (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 3974) granting a pension to Retta J. Smith; to the Committee on Pensions.

By Mr. ROBSION of Kentucky:

A bill (S. 3975) for the relief of Capt. George R. Armstrong, United States Army, retired; to the Committee on Military Affairs.

A bill (S. 3976) granting a pension to Mary Johnson;

A bill (S. 3977) granting a pension to Elizabeth Ware; and

A bill (S. 3978) granting an increase of pension to William G. Patton; to the Committee on Pensions.

By Mr. HAYDEN:

A bill (S. 3979) granting a pension to Jursha A. Allen; and

A bill (S. 3980) granting a pension to Lorenzo D. Walters; to the Committee on Pensions.

By Mr. SCHALL:

A bill (S. 3981) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes; to the Committee on Commerce.

By Mr. BLACK:

A bill (S. 3982) to adjust the pay of certain persons with prior service in the National Guard or Organized Militia who entered the service between August 5, 1917, and July 8, 1918, inclusive, other than through the draft; to the Committee on Military Affairs.

AMENDMENTS TO THE TARIFF BILL

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

On page 253, line 20, after "cent," insert "and more than 15 per cent."

On page 253, line 25, after "centigrade," insert "and more than 65° centigrade."

On page 253, line 25, strike out all after "xylene" down to and including "oil" on page 254, line 1.

On page 254, line 3, strike out all after "water-gas tar" down to and including "pitches" in line 8 and insert "all tar acids and tar-acid oils containing 50 per cent or more of tar acids by volume and not provided for in paragraph 27 or 28."

On page 254, line 11, strike out "or 28" and insert "28, or 99."

On page 35, after line 2, insert:

"PAR. 99. Dead or creosote oil; anthracene and anthracene oil, containing 15 per cent or less of anthracene; naphthalene and naphthalene oil, which after the removal of all the water present has a solidifying point of 65° C. or below; all distillates (not provided for in paragraphs 27, 28, or 1651) of coal tar, blast-furnace tar, oil-gas tar, or water-gas tar; all mixtures (including solutions) of any of the foregoing; all mixtures (including solutions) of any of the foregoing with any tar or tars or mixtures thereof or pitches therefrom; and all mixtures (including solutions) of any of the foregoing with petroleum or its distillates or residues; all the foregoing, 20 per cent ad valorem and 3 cents per gallon."

On page 11, line 6, after "paragraph," insert "99 or."

On page 11, line 8, after "paragraph," insert "99 or."

On page 11, line 18, after "28," insert "99."

On page 12, line 7, after "paragraph," insert "99 or."

On page 13, line 20, after "27," insert "99."

On page 14, line 1, after "27," insert "99."
On page 17, line 8, after "28," insert "99."
On page 17, line 10, after "28," insert "99."
On page 127, after line 7, insert a new paragraph, as follows:
"PAR. 710½. Swiss cheese, Roquefort and Gruyere, 10 cents per pound."

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 of the Senate:

S. J. Res. 69. Joint resolution authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point Edmundo Valdez Murillo, a citizen of Ecuador;

S. J. Res. 72. Joint resolution authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point two citizens of Honduras, namely, Vicente Mejia and Antonio Inestroza;

S. J. Res. 100. Joint resolution authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point Godofredo Arrieta A., jr., a citizen of Salvador; and

S. J. Res. 107. Joint resolution authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point Señor Guillermo Gomez, a citizen of Colombia.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 2029. An act to authorize the coinage of silver 50-cent pieces in commemoration of the seventy-fifth anniversary of the Gadsden Purchase;

H. R. 6846. An act to authorize the coinage of 50-cent pieces in commemoration of the three hundredth anniversary of the founding of the Massachusetts Bay Colony; and

H. R. 9894. An act to discontinue the coinage of the $2.50 gold piece.

MR. SHOUSE ON THE POLITICAL SITUATION

Mr. TYDINGS. Mr. President, I ask unanimous consent to have printed in the RECORD a speech delivered to Democrats in Florida by Mr. Jouett Shouse, a former Congressman, chairman of the Democratic National Executive Committee.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The address is as follows:

[From the Miami (Fla.) Daily News, Wednesday, March 5, 1930]

The other day the Chicago Tribune, the leading Republican newspaper of the Middle West and perhaps the most influential in the country, printed a front-page cartoon in which it presented the Democratic donkey in a desert, apparently in the last stages of debilitation, with the label, "The Drouth of 1928"; and below it the same animal with its tail up, fat, and full of ginger, browsing in a lush field of Republican administration mistakes captioned "The Bumper Crop of 1929–30."

I do not think I can add much to that picture of the present era of Democratic confidence and the brightness of its political prospects. Perhaps the most outstanding index of the year's development is the recent election of WILLIAM J. GRANFIELD, a Democrat, in the second district of Massachusetts, which not only embraces within its limits Northampton, ex-President Coolidge's home town, but which has been ever since its formation a banner Republican stronghold, so much so that for 30 years sent FREDERICK H. GILLETT, now Senator, to Congress. A normal Republican majority of more than 10,000 was transformed into a Democratic majority of 6,500. The election was to choose a successor to the late Representative W. Kirk Kaynor, who came in with President Hoover a year ago.

The issue of the campaign, as voiced by the two Massachusetts Senators, GILLETT, the Republican, and DAVID I. WALSH, the Democrat, was support or repudiation of the Hoover administration. Some Republican leaders sought to excuse the condemnatory verdict by claiming that it merely was a wet and dry fight—a rather violent assumption in view of the circumstance that both candidates pledged themselves to do what they could in Congress to effect the repeal of the Volstead Act.

In the circumstance that the first definite test in Massachusetts of the national issue of the Hoover administration, in such a Republican stronghold, resulted in definite repudiation of the President, it seems reasonable to prophesy that in November next a Democrat will be elected to succeed Senator GILLETT, and that there will be a gain in the Democratic delegation in the House of Representatives. The textile industry in Massachusetts has not been relieved from the depression which Mr. Hoover practically promised to remedy in his Boston speech during the campaign. Like the rest of the country, Massachusetts is disgusted with the demonstrated inability of the administration to function constructively, despite the fact that the Republican Party has huge majorities in both House and Senate. The conditions that brought defeat to the Republicans in Mr. Coolidge's home district apply to the whole State. Wherefore, I do not think I am overoptimistic in counting Massachusetts as definitely a Democratic asset.

An extension of the same logic suggests that the same psychological reaction may be looked for throughout the country.

It is no answer to the charge of feebleness and inefficiency that a large Republican insurgency has developed in the Senate. Nearly every member of that group supported Mr. Hoover in 1928. Senators BORAH and BROOKHART had a large part in holding the Northwest for the Republicans. They told the farmers that it was safe to trust Mr. Hoover to find the solution of their problems. That these men are now ranged against the President is because they charge him with a failure to carry out the promises they were induced to make on his behalf. The greatest element in leadership is the capacity to maintain discipline. The progressives in the Senate have not revolted out of a mere spirit of mischief. The Republican majority in the Senate is split in three divergent sections because the President could not, or would not, lead his party.

The tariff adventures are symptomatic of the fundamental weakness of the administration. Each of the three factions—the standpat Old Guard, the progressives, and the young Turk rescue squad—has vainly besought of the President an expression of his tariff views, which they all say they represent, although they have fought and are fighting on different sides of the tariff bill.

The newspapers, chronicling the President's breakfast to some of the leaders in the House and the Senate shortly after his recent return from Florida, present him as being choleric at the delay in the Senate over the tariff. It may not be without significance that the guests at this council of war were limited to the standpatters. Though these despairingly concede that the Democrats and Insurgent Republicans constitute a majority in the Senate, neither Democrats nor progressives were called in to counsel with the President on a method of expediting the pending legislation.

It is a strange thing that the President should be in a hectoring mood over the tariff fight. He inaugurated it by opening the tariff question in his first message to the new Congress, which he called in special session, incidentally, against the wishes and advice of the same shepherds who now find that they can not hold their flocks. He permitted, if he did not connive at, the production of the Hawley bill, with its unparalleled schedules of extortionate tariff rates, by the House of Representatives, over which he has absolute control any time he is willing to assert himself. He made not the slightest objection, so far as known, publicly or privately, to the superstructure built by the Senate Finance Committee which finally came out as the Smoot-Hawley bill. It was the effort to impose this enormity on the American people, with its consequence of a billion dollar increase in the cost of living, mainly to further increase the profits of enterprises already at the peak of prosperity, that was responsible for the whole mess.

It is being contended by some of the President's spokesmen that this was done against the President's will. That is a strange contention, for the President's own secretary, Walter Newton, retained his seat in the lower House of Congress during the whole period of framing this measure, and the administration leaders—Speaker LONGWORTH, Chairman of the Ways and Means Committee HAWLEY, Chairman of the Rules Committee SNELL, and Floor Leader TILSON—reported to the White House regularly while the bill was being cooked up under the direction of JOSEPH R. GRUNDY, then the chief of the lobbyists and now United States Senator by grace of appointment by the governor he and the Mellon machine put in office, and the Connecticut Manufacturers' Association, which later on had Senator Bingham smuggle one of their people into the secret meetings of the Finance Committee to make sure that the administration Senators carried out orders.

There never was a time during the 11 months that have been squandered because of the effort to jam through an indefensible tariff that President Hoover would not have been able to check the raid. But never yet has he made a public utterance of disapproval of the GRUNDY rates nor, so far as anybody has been able to ascertain, has he expressed his dissatisfaction privately. His only tariff statement while the bill was being churned in the legislative mill was an anguished wail because the coalition Senators were taking away from him his power under the flexible tariff to change rates at his will.

That flexible provision has resulted during the seven years it has been in operation, in reducing the tariff commission from a high-class body of economic experts into a presidential rubber stamp. You are all familiar with the scandal of a Republican President's demand of a Democratic member of a resignation in blank as the price of his reappointment—a demand, by the way, that was refused; and Mr. Lewis was not reappointed. The Caraway lobby investigation revealed instances where the representatives of highly protected industries demanded the dismissal of able employees of the commission because these men would not take their view of tariff changes.

The power was placed in the President's hands actually as a matter of war emergency. It was presented with the violent fluctuations in the value of European currency after the war—the collapse of the franc,

the mark, and the lira—that it was impossible for Congress to make permanent rates that would justly reflect the difference in cost of production here and abroad. So Congress reluctantly delegated a part of its authority by authorizing the President to make changes to the extent of 50 per cent in any tariff duty on the recommendation of the Tariff Commission. It was stipulated then by those who asked the President be given this extraconstitutional authority that it should be his only while the emergency existed; but, true to history, an executive will not relinquish willingly authority once granted him.

So President Hoover is asking that he be permitted to retain this authority and even have it extended.

Quite apart from the principle involved in restoring to Congress a purely legislative function, the flexible tariff proposition has demonstrated that this power should not remain in the Executive. It is not only a means of repaying campaign obligations, but it is a political weapon too potent to be placed in the hands of any individual, for, in the last analysis, it gives the President power of life and death over business and industry.

The State of Florida is intensely interested in the outcome of the tariff fight. The products which induce that interest are wholly agricultural. How, then, has Florida fared at the hands of the Democratic-Progressive coalition in the Senate? The bill, as rewritten by them, will be of vastly greater benefit to your people if enacted into law than would have been the original Hawley bill that came from the House, or the amended Hawley-Smoot bill that came from the Finance Committee of the Senate.

First. The so-called coalition has removed the seasonal restrictions and has made the protection afforded to your products applicable to all times of the year rather than denying that protection as did the original administration bill during the season when you needed it most.

Second. Important schedules relating to your agricultural output have been increased.

Third. The industrial schedules have been brought down to a degree of reasonable percentages, and you will thereby be saved an immense amount of money in the necessary outlay for the things that you have to buy.

During the last campaign, spokesmen for the Republican Party tried to make you believe that only through the election of a Republican administration could you receive the degree of protection that you consider necessary to the maintenance and the upbuilding of your agricultural interests. Never was there a more mistaken plea. The very sequence of events has proved that you have fared better since the control over legislative policies was taken out of the hands of the Republican Party, and vested under the leadership of Democrats in the so-called coalition.

Both parties were committed to farm relief. Both parties were committed to such adjustments of the tariff as would afford the greatest possible measure of agricultural prosperity.

The Democratic Party in its Houston platform was explicit and definite in taking a position in favor of the protective principle, which has come to be a recognized feature of the industrial life of this country.

But the Democratic Party believes in a reasonable parity between agriculture and industry. The Republican Party at times has claimed so to believe, but the Republican Party in the pending bill used the distress of agricultural interests to attempt to thrust upon the American people a veritable tariff monstrosity which would largely have destroyed to those dependent upon agriculture any benefits they might have received through increased prices as a result of tariff raises, by forcing them to pay to industries already at the peak of prosperity, unheard of and unjustified prices for every class of merchandise and of building material.

Some of the apologists for the administration have attempted to blame the Senate for the unfortunate predicament in which Mr. Hoover finds himself. The fact is that Mr. Hoover, and Mr. Hoover alone, is responsible for his present embarrassments.

Did anybody expect Senators to disregard the sentiment of the country and to violate their own consciences by meekly accepting the tariff of extortion, the criminal character of which has been thoroughly exposed by revelations before the lobby investigation, which made plain the processes by which favored industries were able to write their own rates?

It would be a sad day for the Republic when the United States Senate became merely a vehicle for registering the will of the President. Yet because it is not, its critics are arraigning it.

Election to the Presidency does not necessarily make a successful candidate the source of all wisdom or confer on him infallibility. It was recognition of this that caused the founders of our Government to separate the functions of administration into three independent branches. If the Senate was always wrong and the President always right, Fall would not have been convicted, Sinclair would never have gone to jail, Harry Daugherty might have continued as Attorney General, Charles Beecher Warren, the sugar lobbyist, would have been in charge of enforcement of the antitrust laws, Newberry would have remained a Senator, the postal pay increases would not have been effected, and there would have been no soldier bonus.

The assailers of those who have prevented the enactment of the Smoot-Hawley tariff raid had no word of criticism for the Senate when it balked the effort of Woodrow Wilson to bring us into membership in the League of Nations, or when it checkmated the attempts of his successors to have the United States join the World Court. Nor was insurgency regarded as a crime by them when certain Democrats abandoned their party's policies and thus enabled his enemies to wreck the projects of a Democratic President.

To-day marks the end of the first year of Mr. Hoover's administration. Some of his friends and spokesmen still claim that it has been a year full of constructive work. Frankly, do the facts bear out such an assertion? Congress has been in session almost continuously, and yet, with the exception of the farm relief act, the outcome of which still is uncertain, and participation by the United States in the conference for limitation of armaments, the result of which is still in doubt, what measures of constructive importance have been settled?

It is true that innumerable commissions have been appointed, some of them with congressional consent, others merely through Executive authority. In a good many instances it is not unfair to suggest that the appointment of these commissions has been devised with a view of shifting responsibility from the shoulders of the Executive, where such responsibility properly belongs. According to Mr. Hoover's spokesman, he has inaugurated many things of vast benefit. According to their claims he is approaching the problems of the Presidency with the mind of a great engineer who requires all the facts before he is ready to bring any pending problem to a suggested conclusion.

I do not assume to predict what may be the ultimate result of Mr. Hoover's four years in the White House, but I assert that unless more tangible progress characterizes the remainder of his term than has been evidenced during the first part of it, his friends and apologists and defenders are certain to be sadly disappointed in the outcome. And if the measure of his leadership may be fairly gaged by his attitude toward the tariff bill which has been pending for well nigh a year his administration, regardless of its overwhelming majority in Congress, will get nowhere through the process of legislation.

The American people do not demand a czar as president. The American people do not expect that the President of the United States shall dictate to Congress, but the American people expect of the man chosen as their Chief Executive, when his party is in control of both branches of the legislative arm of the Government, a degree of constructive leadership that will get results. And, with due deference to Mr. Hoover's great ability as an engineer, it is respectfully submitted that the helpful leadership, the constructive direction, the welding together of men from different sections and with different views so that their minds may meet on a common ground, has been so sadly lacking as to prove either an utter inability of leadership or an utter unwillingness to courageously assume the responsibility that should attach to the Presidency.

Every President in our history who has made a marked success of his administration has been able to lead Congress and to lead the people of the country. Those Presidents who have failed have failed principally because of the lack of these attributes.

The melancholy spectacle of disorganization and recrimination and the loss of confidence in Mr. Hoover's government is due as much to the scandal of the tariff and to the lack of leadership of the President as to the circumstance that the prosperity promised by all the Republican speakers in the last campaign, both high and low, turned out to be the worst stock crash in the country's history.

I do not pretend to predict how much of a change in Congress will result at the elections next November. I do predict that there will be a marked Democratic gain. Every congressional by-election that has been held for the last nine months has indicated a definite trend to the Democratic Party. The South is safely back in the Democratic fold. There is no question that Florida will return a solid Democratic delegation any more than there was question as to the election of a Democratic governor in Virginia last November by an unprecedented majority. But that does not mean that the Democratic Party of Florida should not effect a competent militant organization.

I congratulate the Democrats of Dade County on the constructive steps they have taken along this line, and the cooperation they are giving us at national headquarters.

I trust that other important counties of the State may follow this excellent example, and that your State committee, regardless of the fact that Florida has in the past been a one-party State, will recognize the advantage of a live Democratic organization.

We at national headquarters for the first time in the history of our party are attempting to carry on intensive activity during off years. There are three major divisions of our work—organization, education, and publicity.

We do not for an instant claim, we do not even remotely suggest, that the present political trend is due to our activities, but we feel sure that what we have been permitted to do has had the effect of putting new courage and new life into Democrats everywhere, and we know that the Democratic minority in the Congress of the United States to-day is the most militant and the most virile minority that we have enjoyed in years.

There is one thing with which we at national headquarters are not in the least concerned. That is the question of candidacies. With it we refuse to have anything to do. Further, we are not concerned with

how men and women voted in 1928. We are tremendously concerned with how they will vote in 1930 and 1932.

The Democratic Party is engaged to-day, as it has been almost unfailingly through the 130 years of its remarkable history, with a great fight on behalf of the struggling, inarticulate masses of humanity; a fight for liberalism; a fight against privilege; a fight for the restoration of the Jeffersonian principles of government. In that struggle we invite the cooperation of forward-looking men and women everywhere, regardless of past party affiliations; regardless of disturbing differences and dissensions. If under such a banner we can enlist the people who believe in fundamental Jeffersonian principles, our party again will be restored to power, and those principles again will become as they were almost uninterruptedly for 60 years, the principles of the State.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on Banking and Currency:

H. R. 2029. An act to authorize the coinage of silver 50-cent pieces in commemoration of the seventy-fifth anniversary of the Gadsden Purchase;

H. R. 6846. An act to authorize the coinage of 50-cent pieces in commemoration of the three hundredth anniversary of the founding of the Massachusetts Bay Colony; and

H. R. 9894. An act to discontinue the coinage of the two-and-one-half-dollar gold piece.

REVISION OF THE TARIFF

The Senate resumed the consideration of the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes.

The VICE PRESIDENT. The pending question is the amendment proposed by the Senator from Washington [Mr. JONES], which will be read for the information of the Senate.

The Chief Clerk read as follows:

On page 118, after line 3, insert the following paragraph:

"PAR. —. Timber hewn, sided, or squared, otherwise than by sawing, and round timber used for spars or in building wharves; sawed lumber and timber not specially provided for; all the foregoing, if of fir, spruce, pine, hemlock, or larch; railroad ties, and telephone, telegraph, trolley, and electric-light poles of any wood; all the foregoing, $1.50 per thousand feet, board measure, and in estimating board measure for the purposes of this paragraph no deduction shall be made on account of planing, tonguing, and grooving."

Mr. SMOOT. Mr. President, I ask unanimous consent that speeches on the pending amendment be limited to not more than 20 minutes and that no Senator be permitted to speak more than once.

The VICE PRESIDENT. Is there objection?

Mr. WALSH of Massachusetts. Mr. President, I have no objection, but I do want to impress upon the Senator the fact that if this consent is granted we should have further unanimous consent granted for having individual amendments considered in the order in which the schedules appear in the bill. It is going to be impossible to have intelligent discussion and presentation of the facts pro and con on these amendments unless Senators are informed what portion or part of the bill is likely to be taken up at or during a given hour.

Mr. SMOOT. Later I am going to renew my request that we take up individual amendments schedule by schedule.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah that speeches on the pending amendment be limited to not more than 20 minutes and that no Senator be allowed to speak more than once? The Chair hears none, and it is so ordered.

Mr. JONES. Mr. President, suggestions have been made on the floor from time to time and charges have been made in the press that trades and combinations have been made in the Senate. I have no sympathy with such suggestions and charges. I give credit to every Senator for the same sincerity of purpose and honesty of motive that I claim for myself. I have sought, in every matter brought before the Senate, to act as I thought was best and wise. The mere fact that a Senator does not agree with me or does not vote as I vote is no warrant for me to conclude that he has entered into some combination or trade or something of the sort.

I remember a few days ago my good friend from Massachusetts [Mr. WALSH] submitted a proposal to the Senate with reference to a tariff on a certain class of shoes. The proposed tariff on hides had been voted down. I voted for it. Comparatively few Senators voted for the proposal of the Senator from Massachusetts. I voted for that proposal. No one was warranted in concluding because I voted for that proposition that the Senator from Massachusetts and I had entered into a combination or had made a trade or anything of that sort. The Senator from Massachusetts presented——

Mr. WALSH of Massachusetts. Mr. President——

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Massachusetts?

Mr. JONES. I shall yield in just a moment.

The Senator from Massachusetts presented the matter in which he was interested; his presentation appealed to me; it seemed to me to justify action along the line that he suggested; and I therefore voted in that way.

As I have stated, no one has any right to intimate or suggest that there has been any combination or trade with reference to votes of that kind; and that has been the character generally of the votes, in my judgment, that have been cast in the Senate on the tariff bill. Now I yield to the Senator from Massachusetts.

Mr. WALSH of Massachusetts. Mr. President, if it were possible to conceive of the Senator from Washington trading or swapping votes, I fear I would lose all confidence in representative government; he is about the last man in this body whom I would suspect of anything of that kind; yet I can not help but say that things have been happening here in recent weeks that have somewhat shaken my confidence in the judgment of the Senate always being reflected upon conscientious conviction. If logrolling, which is trading votes, is not here, then some other invisible influence has brought about a shifting of votes and reversals of judgment that is unparalleled in the history of legislation.

There have been some very suspicious circumstances connected with the shifting of votes on many of these items. Indeed, it is admitted privately that votes have been and will be exchanged on all important items.

However, I do want to say this: The Senator from Washington did vote as he has stated on my amendment, which sought to give protection to one of the industries of this country that is very much depressed; but I was very much shocked to find other Senators, such as the Senator from California [Mr. SHORTRIDGE] and the Senator from Indiana [Mr. WATSON] and others, who voted for every other protective duty suggested, declining and refusing to vote for a protective duty on women's shoes and leather.

The Senator from Washington, conspicuous for his fairmindedness and his breadth of judgment, was consistent, at least, in supporting the protective duty in the case of women's shoes and of leather. I commend him for his fairness.

Mr. JONES. Mr. President, I appreciate the kind words of the Senator from Massachusetts, but I do not claim for myself any more sincere motives or actions than I concede to my colleagues on this floor.

Now, Mr. President, I think I will proceed without interruption, because the time is limited. When we began the consideration of the pending bill I wanted to limit its scope within the lines of the President's message. That probably could not very well be done because of the action that another body had taken with reference to the measure. Furthermore, that did not seem to be in accord with the wish of a majority of the Senate. So the whole tariff proposition has been opened up, and we have had to proceed along that line. I felt at the time that one or two of the industries in my State came clearly within the limits of the President's recommendations. I thought that I was pretty well acquainted with the conditions there, and, applying those conditions to the suggestions in the President's message, it seemed to me that we would be justified in asking for tariff protection in behalf of those industries.

The situation with reference to the lumber industry in my State is a very bad one. I do not know of a better statement that I could make as to that situation than has been made by the Governor of the State of Washington. We have a very excellent governor, a very able man, one who knows the lumber business not only by reason of his knowledge of the conditions in the State but because of his experience with that industry itself. I am going to read merely a brief statement from a letter from him, which, I think, really expresses the situation with reference to the lumber industry. This letter is dated Thursday, February 6, and, in part, reads as follows:

Because I have been engaged in the lumber business for 40 years some of my political enemies claim my interest is selfish.

Of course, that is a very natural thing to do.

My life's work is tied up in our mills at Everett, which have been closed for more than four months, the key turned in the door, and the men idle. The last seven years without a penny of profit have finished my family and me—

I take it he means in a financial way—

but there are other concerns which are still hanging on, hoping that the Republican Party will redeem its platform pledge and save the greatest industry on the Pacific coast by putting an adequate tariff on lumber, protecting it against unjust and unfair foreign competition.

Mr. President, I do not know that I can add anything to that clear and concise statement made by a high official of the State of Washington, who is thoroughly acquainted, as I have said, with the conditions in that State, and who, by experience as well as by personal knowledge of conditions in the lumber industry, is qualified to tell us what those conditions are.

It is true, Mr. President, that there are some large lumber holdings which are probably getting along fairly well. That is true of every class of industry. We hear much about agricultural depression and the bad conditions prevailing in the agricultural industry—and I concede those conditions are bad—and yet there are men engaged in agriculture who are prospering, who seem to be getting along splendidly. However, their prosperity does not indicate that agriculture generally is prosperous, and their prosperity ought not to prevent us from legislating for the entire industry.

The tariff is not for the large monopolies. Let me suggest in this connection that if we have regard in tariff legislation, or in any other legislation for that matter, only for the strong and the powerful and the prosperous, the result will ultimately be absolute monopoly. We are all against monopoly; we want to encourage diversity of interests, diversity of activity in the same line of industry. I would rather have engaged in the lumber business in my State a hundred mills or operators than to have the business centered in one or two; but that, Mr. President, will be the inevitable result unless we do something to help out the average lumber operator.

While some of the mills and lumber operators are prosperous and are getting along fairly well in my State, there are hundreds of others that are in bankruptcy or are threatened with bankruptcy. I have been over the State; I have been through the lumber sections; I know that there are hundreds of small operators; I know that there are hundreds of small mills and small mill owners, and they are the ones that I want to help; they are the ones that I think need help; and, if a tariff is of any benefit at all, they are the ones the tariff will benefit, so far as the operators are concerned.

But, Mr. President, there is another class in whom I am really more interested than in the operators, but it is a class that depends upon the operators and their prosperity. I refer to the laboring people of this country. An operator may cease to operate his mill for quite a while, and yet he lives very well. The cessation of operations of his mill does not mean that he will have nothing to eat; it does not mean that he will have nothing to wear; it does not mean that he will have no means of getting the things that really bring comfort and enjoyment to life; but the laboring man when he is thrown out of employment loses his wages, and when he loses his wages he and his family must go without the comforts of life and, in many instances, without even the necessities of life. It is the laboring man and the women and children dependent upon him in the lumber mills of the country in whom I am especially interested.

What is the condition in my State now? What is the condition generally in the lumber industry, as I hear it from other sections of the country? It is that many of the laboring people are out of employment; they are out of work. As I have said, many of the mills have actually closed down, and that throws all the employees of that mill out of work all the time, unless they can get work, of course, somewhere else, and that is all the more difficult. There are many mills also in my State which are running on short time. Instead of running 6 days in the week, they are running 5 days a week or 4 days a week or 3 days a week. That means that labor is without employment during the time when the mills are idle, and labor is without its wages. As I said when I addressed the Senate previously on this subject matter, the operators have not reduced the daily wage; they have kept that up. Of course, where they have closed their mills down it is all gone, and where they have closed down one day a week the laboring man loses one day's wage, and where they have closed down four days a week he loses four days' wages.

So, gentlemen of the Senate, those are the people in whom I am especially interested. They are the ones who will get the real substantial benefit if a tariff on lumber will help anybody, as we believe it will.

Mr. President, as we all know, our principal competition in the lumber industry comes from the friendly country to the north of us. I want to reiterate what I called to the attention of the Senate previously, that when we let their products come into this country free of duty we are admitting Chinese or oriental labor free. The labor that we say can not come into this country at all we are allowing to come in indirectly by having their products brought in. In regard to that I will say that the Tariff Commission estimates 30, 40, and 50 per cent of oriental labor in that country. I received yesterday a letter from a Mr. B. Hughes, whom I do not know. He writes from Port Albuni, British Columbia, and he evidently knows what he is talking about. He is not a capitalist; he is a shingle weaver, an ordinary, average laboring man. This is what he says:

> SIR: Would like to express a shingle weaver's opinion on tariff on lumber and shingles. Now, Mr. JONES, about 75 per cent of lumber and shingles manufactured in British Columbia are in one way or another handled by oriental labor.

Mr. President, that is a plain, square statement by a man on the ground, a laboring man; and it seems to me it ought to appeal to the Senate.

The difference in the cost of production of lumber in the other country and in this country has been clearly shown by the Tariff Commission. The Tariff Commission have been quoted on this floor time and again. Their judgment as to facts has been appealed to in support of this tariff and that tariff. All I ask is that their report be given due weight in the consideration of this matter. They have investigated the situation carefully. What do they find?

You may say what you please, but this can not be gainsaid. It is an unbiased report of the conditions as the Tariff Commission found them after an investigation. They find that the difference in the cost of production of lumber in Canada and in this country on the labor basis is 48 cents a thousand, and then they find that the difference in the cost of logs produced in Canada and in this country is $2.13 per thousand, and then they find that the difference in transportation costs is $2 a thousand. In other words, they find that the difference in the cost of production of lumber in Canada and in this country is in favor of Canada to the extent of $4.61 per thousand.

I have not time to amplify on that. It does not seem to me that it is necessary to amplify upon it when the difference in cost of production is shown to be so much, and then when we ask a tariff of a comparatively small part of that.

The opponents of this amendment talk about reforestation. They urge that the proposal of a tariff is against reforestation. I can not discuss that subject to any considerable extent, but I want to call attention again to language from the governor of our State. A short time ago he wrote a letter to a gentleman with reference to this particular matter. He talks from the standpoint of practical experience, and this is what he says:

> Owing to the fact that the National Government refuses to protect this timber against unfair foreign competition—

Listen—

> we are now cutting and slashing it to the tune of 200,000 acres per year, leaving a large portion of the whole on the ground, food for fire, because the loss is too great if we attempt to market the lower grades. In his anxiety to cash in before taxes and stumpage prices swallow his entire holdings, the timber owner continues his orgy of destructiveness, bringing nothing in the way of profit back to the State from this—Washington's greatest natural resource—all for the lack of a just tariff protection against unfair foreign competition. There is no reforestation policy known that could reproduce the timber we are wasting today for the price we are getting for it. Timber produced artificially would cost somebody so much by the time it became merchantable that one could more economically use chrome steel or any other building material known to the ingenuity of man.

Mr. President, I can not enlarge on that.

The VICE PRESIDENT. The Senator has one minute remaining.

Mr. JONES. I thank the Chair. Just one word:

I talked yesterday with a gentleman whom many of the Senators on this floor know. He says that either weekly or monthly vessels are coming into New York City with Russian lumber, taking the place of American lumber. One of his immediate family is engaged in the shipping business, and he gets this information authoritatively. He says, "I can get my lumber cheaper, but that means idleness for American mills and lack of employment for American labor." He is a great home builder. He builds hundreds of houses a year. He says, "I would rather pay a little bit more to encourage our people and employ our labor than to get the lumber a little bit cheaper from these other countries."

The VICE PRESIDENT. The time of the Senator from Washington has expired.

Mr. COPELAND. Mr. President, I send forward a proposed amendment to the amendment of the Senator from Washington.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. It is proposed to add, at the end of the amendment, a proviso reading as follows:

> *Provided*, That there shall be exempted from such duty boards, planks, and deals of fir, spruce, pine, hemlock, or larch in the rough or not further manufactured than planed or dressed on one side when imported

from a country contiguous to the continental United States, which country admits free of duty similar lumber imported from the United States.

Mr. WALSH of Massachusetts. Mr. President, will the Senator state the effect of the proviso? Is it to put these lumbers on the free list if Canada repeals her protective duties on similar lumber?

Mr. COPELAND. Exactly.

Mr. President, I have listened with great interest to what the Senator from Washington [Mr. JONES] has said. During these months of the tariff debate I have had more letters and telegrams relating to lumber than to any other subject. If I were to be influenced by them, I should have to be in bitter opposition to what the Senator from Washington proposes; but I asked for certain information from the experts as to the exact situation with regard to the production of lumber and its importation into the United States. It appears to justify a reasonable tariff.

The appeal has been made in this debate to-day and on other occasions by the Senators from the Northwest. As a matter of fact, Mr. President, of the billion and a half feet of lumber coming in from Canada, only one-third of it, about 500,000,000 feet, comes from British Columbia. Two-thirds of the manufactured lumber coming into the United States comes from the parts of Canada contiguous to the northeastern part of our country.

Mr. SHEPPARD. Mr. President, the Senator means that two-thirds of the lumber coming in from Canada comes from the parts of Canada contiguous to the northeastern part of the United States?

Mr. COPELAND. That is correct. Did I not say that?

Mr. SHEPPARD. I thought the Senator said "two-thirds of all the lumber coming into the United States."

Mr. COPELAND. No, no. Of the lumber coming from Canada, two-thirds comes into the northeastern part of the United States.

Here is a very interesting statement made to me by the experts:

Of the 1,500,000,000 feet of lumber coming in from Canada, 1,330,000,000 feet is planed or dressed on one side or further manufactured. In other words, almost all the lumber coming in from Canada is manufactured or partly manufactured. The significance of that fact lies in this, as the Senator from Washington pointed out: This work, this labor, this employment of labor, is in Canada, not here.

Now, further—and this was emphasized very strongly by the Senator from Washington [Mr. JONES]—in the Canadian industry we find that foreigners, orientals, and other low-salaried persons are largely doing that work. We are depriving the American workman of the opportunity of manufacturing a billion and a quarter feet of lumber.

I should not be satisfied, however, to have the amendment offered by the Senator from Washington adopted without the modification which I have proposed, because Canada now imposes, I understand, a 25 per cent duty on dressed lumber. If that duty were removed, the freight rates are such that dressed lumber from the Southern States of our Union might be sent into a Canadian field. I am speaking now about that part of the field contiguous to the northeast. If this duty imposed by the Canadian Government were removed, there would be no excuse for this tariff; and I am sure the Senator from Washington agrees with me.

I ask the Senator from Washington whether he would be willing to accept this modification of the proposal he makes, so that, in the event of Canada removing the tax upon dressed lumber, we in our turn might enter that field? If he is willing to do that, so far as I am concerned, I feel that I might support the proposal the Senator makes.

Mr. JONES. Mr. President, I will frankly say that the suggestion of the Senator appeals quite strongly to me. I think I appreciate what it means. I would rather have my amendment without any addition to it, but so would I rather have what I consider a better amendment than that. I have made some considerable concessions in it.

I do not think this is a very large concession to make; and I think I will say to the Senator that I will accept his amendment and make it a part of mine.

Mr. COPELAND. And modify the amendment accordingly?

Mr. JONES. And modify my amendment by adding that to it.

Mr. COPELAND. I thank the Senator.

Mr. JONES. I think we are justified in doing that for the reasons the Senator has pointed out.

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

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Vermont?

Mr. COPELAND. I yield.

Mr. DALE. I certainly hope the Senator from Washington will accept the amendment of the Senator from New York, because there are some of us from New England who could not possibly vote for his amendment unless this were in it. We are very anxious about it because of some of the mills along the border in my State, especially.

The VICE PRESIDENT. Does the Senator modify his amendment?

Mr. JONES. I modify the amendment. It does not affect the principle of it.

Mr. COPELAND. Mr. President, in response to what the Senator from Vermont [Mr. DALE] has said, I think this gives us the sort of protection which he has in mind; and my own feeling is that the proposed amendment, as modified, will give increased employment in many States, including my own.

Mr. TRAMMELL. Mr. President——

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

Mr. COPELAND. I do.

Mr. TRAMMELL. What effect would this have on the lumber products of the Southern States, where we have the yellow pine?

Mr. COPELAND. That is, if the amendment which I propose, and which has been accepted, is adopted?

Mr. TRAMMELL. Yes.

Mr. COPELAND. It would mean that if at any time the tariff were removed by Canada there would be a new market for southern timber, because the part of Canada contiguous to Northeastern United States would be a field where southern pine might be sold. I think it would be advantageous.

Mr. TRAMMELL. What would become of the Russian competition for the lumber of the Southeast and the Southwest?

Mr. COPELAND. Of course, my amendment relates only to the territory contiguous to us. The tariff against Russia would continue.

Mr. TRAMMELL. I should like to know if this would remove the tariff as far as Russian importations are concerned.

Mr. COPELAND. No. If the clerk will read the amendment, the Senator will see just what it states.

Mr. TRAMMELL. May I have the amendment reported, with the proposed modification?

The VICE PRESIDENT. The amendment will be read as modified.

Mr. COPELAND. Before the clerk reads, let me say, for the benefit of the Senator from Florida, that the proviso is that there shall be exempted from such duty boards, planks, deals, and so forth, in the rough or not further manufactured than planed, when imported from a country contiguous to continental United States, which country admits free of duty similar lumber imported from the United States. So that it would not involve the question of Russia.

Mr. TRAMMELL. Mr. President, with that information, I see no particular objection to it, from my standpoint.

Mr. COPELAND. Mr. President, I ask unanimous consent to have inserted at the close of my remarks a memorandum covering the point at issue in this case prepared by the tariff experts.

The VICE PRESIDENT. Is there objection?

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

MEMORANDUM AGAINST THE TARIFF ON ROUGH LUMBER AND SUPPORTING A TARIFF ON DRESSED LUMBER

This memorandum supports the argument in favor of (1) countervailing duty on lumber received from Canada, the effect of which would be to put a countervailing duty of 25 per cent on lumber planed, dressed, or manufactured further than on one side, and would leave free of duty rough lumber to come into this country (this being reciprocal of the present Canadian verbage); and supports further (2) a proviso to be inserted at the end of any amendment imposing a straight duty on all lumber, which proviso would exempt from either a board measure or ad valorem duty lumber in the rough or not further manufactured or dressed or planed on one side.

In the first instance it should be consequently borne in mind that while the burden of seeking the imposition of some sort of a tariff on lumber has persistently and continuously been borne by certain western Senators, the interests of the States of Oregon and Washington are affected only in a small measure as compared with the interests of the State of New York and the intervening States on the American seaboard, where our large consuming centers are located. Statistics which may be verified at the Tariff Commission show that of the 1,500,000,000 feet of lumber which entered this country from Canada in 1929 only 500,000,000 feet came from British Columbia. Mr. Franklin Smith, of the United States Tariff Commission, lumber expert in the Senate cloakroom, can verify these approximate figures. Approximately 61 per cent of the spruce, which is Canada's chief specie wood, exported into the

United States comes from Quebec, New Brunswick, and Nova Scotia, and 85 per cent of all pine, which is Canada's second chief lumber export to the United States, comes from two Provinces of Ontario and Quebec on the Atlantic side of the continent, so that it should be constantly borne in mind that the eastern market of the United States, rather than the western market, is the one that is vitally concerned in the legislation about to be enacted. The percentage of United States imports from Canada of species, based upon the total value of imports during the year 1928, is as follows:

	Per cent
Cedar	5
Douglas fir	16
Hemlock	3.4
Pine	25
Spruce	41.6
Other	9
Total	100

It will be readily seen, therefore, that the pine and spruce industry is the one vitally affected by the proposed legislation.

Any tariff on rough lumber excludes a raw and not a manufactured or partially manufactured product, and is therefore contrary to the theory of tariff imposition. The primary purpose of tariff is to protect the American industry. Tariff on rough lumber also violates the theory of conservation of natural resources, tends to exhaust them. American industry, so far as the lumber business is concerned, needs protection against the exploitation of its market by the dumping of cheap manufactured material, produced at a low cost through the medium of cheap foreign labor. A tariff on rough lumber is a direct blow at American labor, for the reason that it excludes from this country one of our chief basic workable products, for every foot of rough material excluded from this country deprives some American mill worker of the opportunity to perform the necessary labor in dressing or further manufacturing that product.

As the situation now exists, thousands of men are employed in Canadian planing mills, Orientals on the west coast and cheap Indian labor on the eastern coast, who are performing the labor necessary to manufacture wooden products and pour them into a devastated American market. The Canadian industry has an organized selling organization, which now reaches to the ultimate retail lumber dealer direct, and for the want of a tariff on dressed lumber, the finished and manufactured lumber produced by such labor pours direct into our retail market, thus taking the place of lumber which otherwise would be sawn and milled by one of our own mills in Alabama, Georgia, Virginia, Mississippi, South Carolina, Washington, Idaho, Montana, or some other of the 36 lumber-producing States.

On the other hand, Canada specifically bars our manufactured product, by the maintenance of a 25 per cent ad valorem duty on lumber dressed on more than one side, and as a consequence the American lumberman has no Canadian market. In other words, Canada keeps her market exclusively to herself, and exploits the American market, both to the detriment of the American lumberman.

Canada is a very friendly neighbor of the United States. To this time it has not imposed a duty on rough lumber imported into Canada from the United States. The passage of a tariff on rough lumber coming from the United States into Canada, would be something further than Canada now imposes against the United States, and the real protection that the American market now needs is against the product which is planed, dressed, or manufactured on more than one side. The imposition of a tariff on rough lumber is unwarranted, and might be considered as a direct affront to a friendly neighbor, who does not make such an imposition against the United States.

THE EMPLOYMENT SITUATION

On every hand the cry of the people is heard because of dire circumstances resulting from unemployment. The President of the United States has called together the Nation's leaders, and has endeavored to not only steam up the various Executive departments and branches of the Federal Government, but has called upon the governors of the various States of the United States to do everything in their power to relieve the terrible unemployment situation which now prevails, and which affects every line of industry, and almost every American home. Do you realize that if a tariff were placed on dressed lumber and no tariff on rough lumber, American labor would be benefited by the work which would result from planing, dressing, or further manufacturing raw material, which would come into this country in greater quantity, because free of duty, including raw materials which would take the place of material now coming into this country dressed, and would give to the American millman work which is now being performed on rough lumber in Canada while at the same time exploiting the American market. It is estimated that approximately 1,330,000,000 feet out of the total of 1,500,000,000 feet of lumber which enters the United States is planed or dressed on one side or further manufactured. By analyzing this situation it will be found that the dressing of approximately 1,330,000,000 feet would give labor to American workmen approximately 532,000 working days. One billion three hundred and thirty million feet of lumber is equal to 66,500 carloads of lumber, each carload containing approximately 20,000 feet, which is the average loading capacity. It takes eight men one day to dress one carload of lumber on an average. This figure refers only to planing and dressing, and does not include further manufacturing which would take three or four times as many men, depending upon the extent to which the material was further manufactured.

A tariff on rough lumber deprives our country of work which American workmen need. Ninety-five per cent of all lumber coming out of Canada is dressed and a tariff on dressed lumber only would give us ample protection.

A tariff of $1.50 or even $2 on rough lumber does not serve the purpose of barring out anything. The average freight on Canadian lumber to destinations in the United States is $10 per thousand. Does anyone believe that on lumber where the Canadian manufacturer pays a rail freight from

	Per thousand
New Brunswick	$9.00
Quebec	8.00
Ontario	10.00
Saskatchewan	13.50
Manitoba	14.00
British Columbia	20.00

that a tariff of $1.50 or $2 will afford any protection?

Will anyone believe that a tariff of $1.50 on rough lumber will afford adequate protection or any protection to the American manufacturer whether in the West or South?

Does anyone believe that a tariff of $1.50 on rough lumber will afford any protection to the American planing mill when the cost of dressing lumber approaches $2 per thousand?

Does the Canadian tariff of 25 per cent ad valorem on dressed lumber only protect Canadian workmen? It does.

Does the Canadian tariff of 25 per cent ad valorem on dressed lumber keep our yellow pine and other American lumber out of Canada and keep the Canadian market exclusively for Canada? It does.

Is there a volume of rough and dressed one side only American lumber coming over the border to Canada? There is not. It is impossible because of the duty. Extra freight and weight on rough material and the 25 per cent ad valorem tariff on dressed lumber effectively bars all American lumber out of Canada. In addition rough lumber can not be shipped to the trade or the consumer but must be further first prepared and this can not be done without bringing it under the 25 per cent dressed lumber tariff.

If a tariff on rough lumber as suggested affords no real protection, does not now exist in the Canadian law, may be extremely irritating to our neighbors without serving any good purpose to anyone, and undoubtedly will further take away the opportunity for employment of American millmen, let us not be concerned about the small amount of Canadian rough lumber which comes into this country, and look to a tariff countervailing duty on dressed lumber which is that classification which has insidiously and increasingly ruined the American industry.

Canada has a 25 per cent duty on dressed lumber (dressed on more than one side) and it affords perfect protection to Canadian industry and labor. Twenty-five per cent on dressed lumber, all work being done by Canadian labor. If their tariff has worked so effectively for them, why not, without the possibility of affront, apply that same duty, and none other for the benefit of the American industry.

Let us look at the situation from an American viewpoint: Canadian tariff is no experiment, as has been shown by experience. If like protection, and that only, is given to the American industry, it is safe to say that a number of our mills which are now closed will be back in operation again within 30 days when the assurance of a protective market is given by the imposition of a countervailing duty on lumber. Measured by the yardstick of experience, a tariff identical with the Canadian tariff is all the protection that the American lumber industry now needs.

The argument may be advanced that Canada may remove its tariff. What would then happen? If Canada should remove its tariff, this would open up to the American lumberman a market in Canada larger than New York, Pennsylvania, and New Jersey combined. This would be a particularly fruitful market for the producers of our southern yellow pine, which is a different character of wood than is now raised in Canada. Canada is maintaining a good home market for the Canadian manufacturer and for Canadian labor. Canada's white-pine culls sell to-day in Ontario at $28 per thousand feet, at the mill; due to a protective market under a Canadian tariff. If Canada had no tariff our southern manufacturers could deliver on to-day's market yellow-pine roofers at $26 on a Toronto rate of freight, but our lumber is barred out of Canada on account of tariff. Is anyone to believe that Canada is likely to forego this advantage that they now enjoy?

The Canadian tariff is written to stay. And while certain items of Canadian lumber are high in price in Canada on account of the good home market protected by Canadian tariff on dressed lumber, other items of Canadian lumber are dumped into Northern and Eastern portions of the United States at sacrifice prices, and our manufacturers have no protection, our workmen are unemployed, and our industry is suffering and rapidly perishing. The imposition by the United States of a countervailing duty on lumber such as Canadian citizens now enjoy is but an application of the golden rule.

American citizens are entitled to the same protection by their Government that Canada enjoys, and which their legislators saw the wisdom to give them. We strongly advocate the entry in this country free of duty of any rough lumber material and the protection of American industry by the imposition of that duty, and that duty only, which Canada has given for the protection of its citizens, and which in effect so vitally destroys the property rights and labor privileges of so many of our American citizens.

Mr. SHEPPARD. Mr. President, I desire to ask the Senator from Washington if it is a fact that the rate he now proposes is lower than the rate he originally sought?

Mr. JONES. Yes, Mr. President. I really think we ought to have $3 a thousand, and I offered my amendment in the first instance for that rate. When it came up before the Senate on a former occasion I reduced that to $2. Now I make the rate $1.50; and let me say to the Senator that I think that is lower than the ad valorem duty on any other article in this bill. It is not more than 10 per cent on really the lowest-priced lumber and it is about 5 per cent on the average-priced lumber.

Mr. SHEPPARD. Mr. President, in view of this last reduction in the rate I do not feel justified in opposing the amendment in its present form.

Mr. NYE obtained the floor.

Mr. GEORGE. Mr. President, before the Senator proceeds may I ask him, because he is familiar with the subject, or the Senator from Washington, what duty, if any, is imposed upon logs imported from Canada?

Mr. JONES. Mr. President, the House imposed a duty of $1 a thousand. The Senate committee struck that out, and the Senate sustained the committee. So that there is no duty on logs in the Senate bill as it now stands. The matter will go to conference. The House put a duty of a dollar a thousand on logs.

Mr. NYE. Mr. President, in the limited time of 20 minutes I am sure no one could bring additional argument such as would bear heavily on the Senate. At this particular stage I do not imagine that any debate whatsoever would alter any minds in this body on the merits of a duty on lumber.

I merely want at this time to summarize what I feel to be the very thorough case against the proponents of a duty on lumber and to draw the conclusion that to adopt any duty whatsoever upon this great natural product would be nothing short of a betrayal of the American people, who have been looking to Congress this winter for the enactment of such a tariff bill as would inure to the advantage of agriculture and would put agriculture somewhat nearer to a fair basis of equality with industry in a general way.

The lumber industry itself has absolutely no right to expect such tariff consideration as they have asked from the Congress this winter. They face no emergency. I think the proof has been offered that they are facing no emergency, reports to the contrary notwithstanding.

Factors that are generally taken into consideration in determining the merits of a given product for a duty, I think all of the factors in the case of lumber, motivate against the argument for a duty upon that particular product. Production, production costs, supply and demand generally, all of these items taken into consideration, are directly opposed to the theory of deserts for protection under the tariff.

There are higher costs in Canada. We have heard it argued here time and time again that the Tariff Commission contend that there are higher production costs in the United States than in Canada, and that therefore our labor ought to be protected.

Let me point out again that whatever has come from the Tariff Commission touching upon that subject has been in the way of a divided report, with three members of the commission contending that production costs are higher in the United States and a like number of commissioners contending that the costs are on a par, or, in some ways, perhaps higher in Canada.

In addition to this consideration of production costs and supply and demand, we are confronted, too, with the consideration which we must give in this connection to such questions as reforestation and conservation of our natural resources.

We listened to the senior Senator from Washington [Mr. JONES] this morning discourse on the depression which faces the lumber industry in the United States. That depression does not exist because of the absence of tariff protection. It exists for reasons other than that, reasons which every American citizen to-day can fully and does fully understand, I am sure.

The National City Bank, of New York, in a very recent edition of its publication, clearly pointed out what was the occasion for this depression in the lumber industry, and I want to read, in part, from that report by the National City Bank. They state:

The most serious feature of the general situation is the falling off in building operations. The industry is of the first importance in every period of uncertainty, not only because of its direct employment of labor but because of its consumption of the products of so many other industries, and, furthermore, because it is known to be subject to wide fluctuations. The information about building operations to this time is not encouraging. Taking January as the latest month for which complete figures are available at this writing, the permits issued in 566 cities totaled only $128,000,000, compared with $234,000,000 in January, 1929, representing a decline of 46 per cent. The total was also 17 per cent under that of December.

Nor are the figures much more favorable if the comparison is made on the basis of contracts awarded. These totaled $323,000,000 in January this year, compared with $400,000,000 in January a year ago, a decrease of 21 per cent. For the first two weeks of February the average daily contract lettings amounted to $10,774,000, compared with $14,726,000 in January of this year and $16,421,000 in February a year ago.

This report goes on to set forth in no uncertain terms the real cause for the difficulties which the lumber industry is having at this time. I ask that the full report may be incorporated in my remarks at this point.

The VICE PRESIDENT. Is there objection?

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

THE BUILDING INDUSTRY

The most serious feature of the general situation is the falling off in building operations. The industry is of the first importance in every period of uncertainty, not only because of its direct employment of labor, but because of its consumption of the products of so many other industries, and furthermore because it is known to be subject to wide fluctuations. The information about building operations to this time is not encouraging. Taking January as the latest month for which complete figures are available at this writing, the permits issued in 566 cities totaled only $128,000,000, compared with $234,000,000 in January, 1929, representing a decline of 46 per cent. The total was also 17 per cent under that of December.

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It thus appears that building operations are continuing at very low ebb. To what extent a pick-up will occur in the spring remains to be seen, but some seasonal increase, of course, is certain. One unfavorable factor is the continued scarcity of mortgage money. Despite the marked reduction of stock market credit requirements and lowering of rates on collateral loans in the larger financial centers, money generally is not easy through the country, and this applies particularly to the mortgage field. Savings banks, which are large lenders on mortgages, are not yet back in the market to any great extent, notwithstanding that savings deposits have begun to pick up again after the general decline of last year. As deposits increase, however, the first move of the banks is to replace high-grade bonds which they were forced to sell in order to meet the deposit withdrawals sustained last fall. Similarly, building and loan associations have not yet recovered from the effects of the stock market break, and insurance companies not only have outstanding a considerable volume of policy loans for purposes of carrying securities, but already have been called upon for more than their share of assistance to the mortgage market, due to the drying up of funds from other sources during the past year.

All of this is a part of the cost of the heavy diversion of funds to the stock market last year. The resulting derangements are in process of correction, but until funds are free again the resumption of building operations is bound to be handicapped. Particularly is this true of residential building which is most dependent on the mortgage market. In so far as public building of roads and structures is concerned, the outlook is already definitely improved by the opening up of the market for municipal bonds, and it is certain that a large amount of such work will be done. Industrial building also is going forward in some notable instances where far-sighted concerns which have surplus funds see in the present lull a good opportunity to carry forward programs of expansion to take care of the enlarged volume of business expected when business once more resumes its normal stride.

Counting public building, such industrial building as instanced above, and the expansion certain to go forward in the public utilities, the construction industry seems to have a fair backlog of business, but with residential construction in a normal year comprising about 40 per cent of the total building budget it is evident that real prosperity in the industry must await the revival of building of that class. Few locali-

ties report a shortage of office or residential space, but it must be remembered that a large part of the building that goes on in this country is in the replacement of obsolete structures rather than addition of actual new facilities. The fact that building has been subnormal for over a year has helped to correct conditions of oversupply and place the industry in a position to benefit from the cheapening of money. In the past easing money rates have always led to a revival of building and this has inspired confidence that it will do so again. Despite the year's slow start building authorities are not yet prepared to revise their estimates of a final building total for the year equal to, if not somewhat in excess of, that for last year.

(Source: Economic Conditions, Governmental Finance, United States Securities, published by the National City Bank of New York, March, 1930, pp. 34–35.)

Mr. NYE. Mr. President, the manufacturers of lumber in the United States themselves have not been united in the demand for a duty upon the products of the forest. They have by no means been united. They have not been urging, as we have been told here, a duty upon lumber in order that they might exist, in order that they might carry on, in order that their businesses might continue.

One of the lumbermen himself recently gave vent to his spirit and his mind, because the small lumber manufacturers were not making the big fuss which he and his colleagues were making in support of a duty upon lumber.

Mr. Charles A. Weyerhaeuser, in an interview given in the Mississippi Valley Lumbermen on June 14, 1929, is reported as follows:

Charles A. Weyerhaeuser, who is identified with the various lumber, timber, and other extensive interests owned and operated by the Weyerhaeuser Syndicate, is back in St. Paul after quite an extensive trip to the West.

He was agreeably surprised to find the majority of the lumber manufacturers whom he met in a cheerful mood, in spite of the fact that they have found it necessary to curtail production quite substantially in order to prevent the price of their lumber radically declining.

Apparently a good many of these manufacturers were reconciled to the probability of their being forced to pay 6-day wages to operate their plants on a 5-day basis.

This is the interesting part:

Mr. Weyerhaeuser confesses that he is absolutely unable to understand, considering the conditions which prevail, why the rank and file of the lumber manufacturers who operate mills on this side of the international line, are taking so little interest, in fact, appeared to be indifferent concerning the outcome of an effort being made to place a moderate duty on certain forest products imported from Canada, even where it is self-evident that the amount sold by these Canadian competitors is considerably in excess of the curtailment of production which they are voluntarily assuming to prevent their enormous investments becoming unprofitable.

So we find Mr. Weyerhaeuser complaining because the manufacturers of lumber in this country will not join with him in his demand for a duty upon lumber. He does not give the sum total of lumber manufacturers of this country credit for being able to see that a duty on lumber will inure to the benefit, not of the lumber manufacturers of this country, but to the benefit of Mr. Weyerhaeuser and those relatively few individuals who are holding the remaining stands of timber, in most part, in this country to-day. It is they who are wanting the tariff, it is they who are going to profit as a result of the tariff, not the manufacturers who are placed here in the picture as making the demand for it.

Mr. President, what of the profits of the manufacturers? We hear much about mills closing down. Why have they closed down? We have seen that they are closing down because of a business decline which has been on for many months in this country, and the West Coast Lumbermen's Association, in a recent edition of the publication issued for their membership, printed some charts showing how this decline has developed since 1928 in the demand for building material.

We have heard in this debate an argument as to why the mills had shut down, and I want to have incorporated in my remarks at this point an article appearing under the head "Weather Shuts Industry Down to About 25 Per Cent of Capacity," appearing in the January 17, 1930, issue of the West Coast Lumbermen's Association News Letter.

The VICE PRESIDENT. Is there objection?

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

Based on the fact that 297 mills reported a total production of 55.8 per cent for the week ending January 11, the association believes that the storm and cold from January 14–16 has caused a further shutdown, temporarily bringing the volume of production down to from 20 to 25 per cent of the industry's operating capacity. Whether this percentage will hold for more than a few days can not be determined at this time. A large percentage of the industry was down entirely Thursday, with others reporting as cutting below normal.

Practically all logging camps were down throughout western Washington and Oregon.

Because of telephone trouble the association could not connect with Vancouver, British Columbia, Thursday. It is believed plants in the Province are operating at approximately the same schedule as last week, as the storm did not reach there Wednesday night.

Mr. NYE. Mr. President, a great many mills have shut down and are not operating because the timber in their communities has been cut out. The supply is no longer there for them to operate on.

Some of the mills are closed down because of mismanagement and inefficient handling of the industry, and it was pointed out to us here in the shingle controversy last October what a desperate condition the shingle mills were in, and what was true of the shingle mills I expect must be true also of the lumber mills.

In any event, at the time of the shingle controversy the junior Senator from Washington [Mr. DILL] offered a list of ninety-odd shingle mills that were closed down, and, he added, closed down because of the lack of a tariff, because of the competition from Canada. If I have his language here exactly, I want to repeat it. Here it is:

I shall not attempt to answer in detail the argument of the Senator from North Dakota; but I hold in my hand a list of almost 100 shingle mills in the State of Washington that have been forced to go out of business for the reason that the immense Canadian importation made it possible for them to keep their mills running part of the time and in idleness part of the time. I think that is a more eloquent answer to the arguments of the Senator from North Dakota to the effect that great profits have been made in the industry by these people than anything I could say; and I ask that this list may be printed in the RECORD at this time.

The list was printed in the RECORD. I undertook a little research work to ascertain just why these 90 or 100 mills had closed or were not in operation. I find, in summarizing the situation, these facts:

Of the 90 shingle mills, 18 of them were closed because their timber was all cut. Sixteen of them were not even known to the mill-machinery manufacturing houses. Thirteen of them were credited with being closed because they were underfinanced or because they were overexpanded. Eight of them were actually operating at the time of the inquiry. Eight of the mills which the Senator said were closed down ostensibly because of lack of tariff and competition from Canada, were burned down and were not rebuilt. Eight of them were sold and are now operating. Four of them were operating sporadically when the market was good; in season they were operating and out of season they were not operating. Three of them the authorities maintained were closed because of poor management. In the case of three more no reason was attributable for the closedown. Three of those listed by the Senator from Washington [Mr. DILL] were listed at least twice in a summary. Two of them were sold and dismantled and not operating. One of them was closed because of the poor quality of timber. One was closed because of a poor market for jap bolts. As to three of the closed mills, the inquiry showed that the principals involved in the mills were in jail.

I argue that it is not a tariff that will save the lumber manufacturers of the country. The tariff will not assist them even to the extent that they would be enabled to employ help in this country and labor in their mills for an additional week in each year. The tariff on lumber will accrue to the advantage alone of this limited number of individuals who are holding the great resources of timber in this country in their own hands. Because they do own and hold the timber they are in a way to dictate the prices the mills must pay for the timber they need to carry on their manufacturing activities.

Mr. President, how much more time have I?

The VICE PRESIDENT. The Senator has five minutes remaining.

Mr. NYE. Am I to understand that by virtue of the Copeland amendment there is an extension of 20 minutes?

The VICE PRESIDENT. The Chair does not so understand.

Mr. NYE. There has been one report before the Senate to which the Senate seems to have given little or no consideration. I have reference to the report which the chairman of the Finance Committee brought into the Senate in company with the tariff bill. If any Senator can read that report, prepared and submitted I presume by the Senator from Utah [Mr. SMOOT], and conclude that anything has developed since that report which changes the face of affairs and shows now where there

is occasion for a duty, that Senator is beyond my understanding. The Senator from Utah declared in that report as follows:

The changes made by the Finance Committee in Schedule 4 consist chiefly of transfers to the free list of such classes of lumber or logs as constitute raw materials for use in domestic manufactures or which are building materials largely used in agricultural districts. The former class includes logs of fir, spruce, cedar, or western hemlock, logs of various species of cabinet wood, and birch and maple lumber (except flooring). The second class includes cedar lumber and shingles. A reduction is made in the rate of duty on bentwood furniture, and small increases in the rate on a few manufactured articles.

Logs of fir, spruce, cedar, or western hemlock are imported only into the Puget Sound district of the Pacific Northwest. Domestic sawmills and shingle mills in that region which are not supplied with timberlands are dependent in part for raw materials on imported logs. The cost of production of domestic logs with which the imported logs compete is not materially different from the cost of producing and towing Canadian logs to domestic markets.

Logs of cabinet woods are not produced in the United States. The domestic sawmills producing mahogany and other cabinet-wood lumber, veneers, and other products are entirely dependent upon imported logs.

Birch and maple lumber, except flooring, is in general imported for further conversion or utilization in domestic factories, for use in automobiles, and for similar manufacturing purposes.

Cedar lumber and shingles are closely related products. Imported shingles are in general of higher grades than the bulk of domestic production. On comparable grades Canadian and domestic costs of production are practically the same.

Beech flooring is transferred from the free list and included in the paragraph with birch and maple flooring, as commercial practice groups these three species of flooring.

Mr. President, I assume that when the Senate Finance Committee were considering lumber matters they had before them all the reports that have been made by the Tariff Commission. They had with them the experts furnished by the Tariff Commission. They had before them all the information then that was available. Surely the report made by the Senator from Utah was made in the face of the facts there developed in that committee. I at least would like to believe that that was the case. What has happened since that time to alter the situation which prevailed then? I can not believe that any member of the Finance Committee, who came out of that committee with such a report as I have read, would to-day take a position in support of a duty on lumber, no matter how thoroughly modified the original amendment may have been.

Mr. President, those interested in the duty on lumber would be just as well satisfied to-day, I think, with 10 cents per thousand as they would be with $1.50. They now are offering a proposal of $1.50 where their original proposal was $3. What is hoped for is to get the commodity on the dutiable list where they will have a better chance to win those even higher tariffs than they have dared to ask the Senate at this time to afford.

Mr. President, when the lumber question was originally before us I had prepared and intended to offer a discussion upon the Russian situation. At that time my understanding was that another Senator was going to take care of that particular question and I refrained from saying anything about it at all. I ask at this point that my remarks prepared in connection with that issue may be incorporated in the RECORD and made a part of my remarks at this time.

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

The matter referred to is as follows:

RUSSIA

America's timber needs are so enormous that it is inconceivable to imagine that they can be supplied by importations from other countries.

As to the Russian situation, with respect to which so much unnecessary alarm has been expressed, the United States in its dire need for lumber has in part turned to Russia as it has to Canada in an endeavor to supply its growing demand for imports resulting from the depletion of its own forests. It is imperative, however, to bear in mind, as already indicated, that the extent of importations of lumber which may come from Russia is rigidly limited by the inaccessibility of the Russian timber, the scarcity of labor, and world competition for the Russian supply of timber which may be available for a world market. Under any circumstance it is obvious that the long sea voyage even to seaboard will materially augment the cost of timber which may be imported from Russia, to say nothing of the fact that a long overland transportation, both in Russia and in the United States, would tend to add to the original cost and to augment the price at which timber can be laid down in the United States.

Russian common lumber actually sold f. o. b. yard on the average for 1927, 1928, and 1929 at $38.74 per thousand feet. Douglas fir lumber delivered f. o. b. car in New York during the same period sold at $25 per thousand feet. If there were no other obstacle to the importation of Russian lumber, certainly the limited number of working days in the lumber-producing sections in northern Russia, which do not exceed more than 30 per year, would be a detriment to the success of any attempt on the part of Russia to capture the American market. (Source: Russian Economic Notes No. 26, U. S. Department of Commerce, April 19, 1929.)

There are only two designated importers of Russian lumber in the United States. Russia's statements concerning her plans for internal industrial expansion, and her plans with respect to the production of lumber for the next five years are at best but problematic. Russia has great resources in standing timber, largely softwood, growing between the sixtieth and seventieth parallels of latitude, but inaccessible for a great many years to come. Railroad construction of a most costly type will be required to develop this timber with little likelihood that the cost of constructing the roads alone would be paid back because of the rugged nature of the country and the lack of population. It is a timber wilderness in a sub-Arctic climate, with frost in the ground most, if not all, of the year. In addition to the difficulty involved in harvesting her lumber, Soviet Russia is even more handicapped by the absence of sufficient and suitable ports. Archangel and Leningrad are practically the only two available. The port of Riga, no longer a Russian port, is as inaccessible as any other in the Baltic.

With respect to Archangel, lying only approximately 150 miles south of the Arctic Circle on the White Sea, the open water runs for only four or five months in the year. Archangel is conceded to be the best Russian port in this region.

The Archangel lumber mills have been sawing for generations, and available near-by timber has been cut. To-day it is necessary to float logs hundreds of miles from inland points along rivers and tributary streams. This is a most expensive type of lumbering. Archangel takes care of the British, North and South American, West Indian, and other remote export trade. Leningrad takes care of the domestic and continental European business, although Leningrad due to ice also has a limited shipping season.

Because of differences existing in the several markets Russia prefers to send lumber to Great Britain rather than to the United States, and Great Britain uses more Russian lumber than all other countries of the world combined.

To-day there is an acute housing situation in Russia, and in Russia wood is the universal building material. Even large cities such as Moscow depend upon frame construction, and housing conditions in Russia face an acute shortage, being so bad that the usual allotment is but one room per family.

Because of American specifications, to which Russia does not take kindly, it is unlikely among other things that Russia will build up a large American trade.

ANSWER TO RUSSIAN LUMBER STATEMENT

(Page 4545)

1. The estimates of standing timber in both Russia and the United States are higher than the estimates on the authority given, viz: Statistical Bulletin No. 21 of the Department of Agriculture.

2. The assertion that standing timber has been nationalized is true, but the assumption that there is no charge for stumpage does not follow. The Lumber Trust, which has charge of the lumber industry in Russia, must turn in to the soviet treasury a very considerable proportion of their income as stumpage fees. This amounts to approximately 18 per cent of the total cost of manufacture.

3. Soviet shipments to England are merely projected. It might be noted that the soviet was unable to fulfill its contract with England, as well as with the United States in 1929.

4. The competition mentioned in this paragraph between Russia and Finland is of no concern to us.

5. The total Russian export sales are of no concern to us. We are concerned only with her shipments to us.

6. We are not concerned with prosperity or competition of the lumber industry of Finland.

7. The statement says: "Russia is importing wheat from the Argentine. This requires payment in gold. Exports of lumber and timber are necessary to obtain the gold to pay for the wheat." We might add that exports of lumber or some other commodity are necessary to obtain the wherewithal to pay for the $40,000,000 worth of raw cotton and forty to fifty million dollars worth of other goods she buys from us. We don't want to lose that business and we must trade if we want to keep it.

8. The folly of arguing projected sawmills in Russia as a menace to the domestic industry is apparent from the recent abstract of a Russian magazine article, which was circulated by the United States Department of Commerce.

CRISIS IN CONSTRUCTION OF SAWMILLS

(Abstract of article in For the Cause of Industrialization, Moscow, January 4, 1930)

"The Supreme Economic Council of the RSFSR considers that the situation of the Drevstroy in 1929–30 is catastrophic. The Drevstroy

is an organization engaged in the planning and construction of sawmills and woodworking plants. Since practically all new projects are being handled by this organization, the preceding statement may be applied to the entire development of the soviet lumber industry. This is especially true, because other construction plants handled by the similar organization, Sevstroy, and individual lumber trusts are in a similarly bad situation? The original task of the Drevstroy for the first quarter of 1929–30 was to build several sawmills of light type. During the winter months this organization was to carry on the equipment of only those mills that were already erected, so as to start their operation in July, 1930. However, the construction of sawmills has not yet been started. Moreover, only 60 per cent of the sawmills designs were finally approved. Numerous illustrations of the disorganization of this work are cited in the article. One of the serious difficulties in carrying out this work is caused by inadequate supply of construction materials."

9. Timber concessions in Soviet Russia are not profitable. Concessionaires have generally gone broke within a year or two after they started operations.

10. Russian estimates have not in the past been very reliable. There is no reason why we should at this time believe them.

11. This statement based on estimates of leading western fir manufacturers, was evidently made without looking at the facts. Russian lumber has a declared value at port of shipment of $20.20 a thousand. Freight charges are $10.82 a thousand, making, without allowing for loading and unloading, a delivered price to the importer of $31. The importer must store the lumber, dress it, and rehandle it several times, making the final price to the consumer of this type of lumber over $40 a thousand. Cargoes of west coast lumber, on the other hand, are being sold in New York as low as $25 a thousand feet.

12. The statement that Russian lumber is pine is inaccurate. Less than 5 per cent of the Russian lumber imported is pine. Ninety-five per cent is White Sea spruce. Future shipments, according to the statements of the principal importer, will be 100 per cent spruce.

13. The insertion in the record of the statement that 60,000,000 feet of Russian lumber are anticipated in 1929, and rumors of 118,000,000 feet are rather late. Actual receipts, according to the Department of Commerce, were 37,936,000 feet in 1929. Since this information is available to anyone, the theoretical expectations have no place in the picture.

14. In view of the 1929 failure, the estimates for 1930 should not be taken too seriously.

15. Supposing that Russia were able—as she was not—to carry out her plans, the price at which she would have had to deliver would have prevented her shipping any such amounts. Russian lumber sells for approximately 50 per cent more than a comparable grade of either Southern pine or Douglas fir.

16. The average cost in 1926 is out of date. The west coast is now shipping certain items of lumber which generally travel by cargo to the Atlantic coast, at prices averaging $15 a thousand feet. Add to this a freight cost of $7 to $10 and the delivered cost is $22 to $25 a thousand feet.

17. The average sale price of all Russian lumber sold by the principal importer for the last three years is $38.74 a thousand feet.

18. According to the cost statement of the West Coast Lumbermen's Association—issued July 31, 1929—the 34 operations reporting made an average of $1.04 per thousand on their operations.

19. This statement is unqualifiedly false and misleading. Russian spruce sells at a considerably higher price than comparable grade of North Carolina or Southern pine.

20. The statement is untrue that American common labor is paid from $4 to $12 a day. It is paid from $2 to $4 a day—according to United States Bureau of Labor Statistics—approximately the same as Russian labor.

Trade with Russia

Year	Total exports to Russia from United States	Cotton exports to Russia from United States	Total imports from Russia	Lumber imports from Russia
1922	$19,684,533	$122,908	$261,225	----------
1923	3,547,055	1,056,009	1,313,179	----------
1924	41,314,355	36,737,758	8,144,373	----------
1925	68,195,686	41,060,711	12,904,731	----------
1926	48,499,061	32,782,698	13,502,687	----------
1927	64,086,677	39,225,554	12,139,251	$298,310
1928	74,091,235	[1] 47,560,000	14,024,525	447,956
1929	84,725,205	[1] 39,100,000	22,555,714	768,465

[1] Estimated from Commerce Department figures.

Source: U. S. Department of Commerce, Commerce and Navigation of the United States.

Mr. NYE. Mr. President, the tariff on lumber can have but the effect of increasing the burden which already rests so heavily upon agriculture and the lumber-consuming public, of which the farmer is in a great majority. Lumber must be regarded as a basic raw material in demand in some way by every citizen in the Nation. In some way lumber affects the life of every citizen; in some way every citizen is interested in it. Certainly it would seem foolhardy at this particular time, when a program of conservation and reforestation is imperative, to further deplete the few remaining lumber resources of the Nation by continuing the same demand upon them without some augmentation, as has been made upon them in the past.

In conclusion, let me remark again that a duty on lumber will revert not to the advantage certainly of the public, not to the advantage of agriculture, not to the advantage of the manufacturers of lumber who have been placed in the position of seeming to ask for a duty, though Mr. Weyerhaeuser declares he can not understand why they do not enthuse and get into the picture and become more active in the demand. It will not help them, but a duty upon lumber will help only Mr. Weyerhaeuser and those like him, who are the holders of the great acreages of the remaining standing timber in the United States.

Mr. TRAMMELL. Mr. President, I understand there is a limitation of 20 minutes on debate on the pending amendment?

The PRESIDING OFFICER (Mr. STEIWER in the chair). The Senator's understanding is correct.

Mr. TRAMMELL. Mr. President, I very much hope that the amendment proposed by the Senator from Washington [Mr. JONES] will be agreed to. I have given quite a bit of thought to the question of the merits involved in the imposition of a tariff of $1.50 on lumber importations. I believe, considering the condition of this great and extensive American industry, both North and South, East and West, that it is entitled to very serious consideration.

Some of those who oppose the proposal for a small duty on lumber run up the flag of distress and contend that it would be a great imposition upon the users of this material throughout the United States. My friend from North Dakota [Mr. NYE], who just preceded me, talked about the question of the farmer being so seriously involved. In making speeches on tariff questions he always seems to base his attitude and his position upon the rights and the interests of the farmer, and with this sentiment on his part I thoroughly agree. I think that the farmers' interests should on any and all occasions be conserved, not only conserved but, as far as possible, advanced through legislative enactment. My votes throughout the contest upon the tariff question and upon other policies which have been considered by the Senate would so indicate.

The Senator from North Dakota said that somehow everybody is interested in lumber, and therefore we should deny this industry the privilege of a meager protection of $1.50 per thousand feet. Likewise, I say that everybody in the country is interested in wheat. Somehow or other the question of the cost of wheat touches everybody in the country, and yet only a small percentage of the American people produce wheat. Yet the Senator from North Dakota has been very vigorous and insistent in asking for a protective tariff on wheat. He has been very diligent in seeking a remedy whereby he thinks the farmers can absolutely get their protection to the extent of at least 21 cents per bushel on wheat. I voted in favor of that proposal because I would like to assist the farmer. However, it is only a small part of the tillers of the soil who produce wheat. In my part of the country we do not produce wheat. We consume wheat or its products, and it costs my people millions and millions of dollars.

The Senator from North Dakota also advocated and voted for a high rate of duty upon dairy products. I voted with him and voted with other Senators in favor of a duty upon butter, milk, and other dairy products. But in my own section of the country we do not produce nearly so much of dairy products as are consumed by the people of my State. As a matter of fact, there are brought into Florida about $30,000,000 worth of dairy products per annum. So I think my vote upon the duty on the dairy products and upon the duty of wheat fairly indicate my sympathy for and my desire to help agriculture as to commodities other than those which happen to be produced in my State, and indicate also that I have looked at the problem in a broad American way in the general interest of agriculture throughout America. So I yield to no man in my loyalty and my devotion to the great farming interests wherever found in the United States.

Now, let us see how the consumers of lumber would be affected by a tariff of this kind, if the duty shall be reflected in the price of lumber, though it is doubtful that it will be. I have had a

little experience in building construction. I did more or less carpenter work during my younger days, and having since then built a few houses as a home owner, I know a little about the amount of lumber required for the average house; in fact, I think I am capable of figuring the amount of lumber that would be used in constructing houses of certain dimensions. I calculated here very hurriedly this morning the amount of lumber that would be required in an 8-room weather-boarded house, with all rooms approximately 16 by 16 feet, and, making a very liberal allowance—in fact, allowing a margin of some 500 feet—it would require only about 7,500 feet of lumber. This, of course, means a house of all-lumber construction. If it was of the stucco type, the lumber required would be not more than 5,000 feet.

So if the tariff was effective the 8-room house, costing $4,000, would cost only $4,010 or $4,012. The 6-room house, costing $3,000, would cost only $3,008 or $3,009. On smaller houses of less dimensions the cost may be $3 to $6 more.

The average person building a home, especially our farmer friends—and I speak with a high regard and sincere affection for him and some knowledge of his problems, for I myself was born and reared on a farm and spent a good deal of time working on a farm until I reached manhood—would probably have a 6, 7, or 8 room house. If he should build a 6-room house, it would cost him only $5 to $9 additional if the proposed tariff rate should be entirely reflected in the cost of the lumber. A farmer builds one house probably in 30 to 40 years. The additional cost of $5 to $9 for the lumber would be spread over a period of 30 to 40 years; and yet somebody will try to make it appear that those who favor a tariff on lumber have no regard or consideration for the farming interests of the country.

Likewise it would be true of the builder of a home in the city or in the town. While people of wealth and of means build larger houses than those with eight rooms, a very large majority of the people of the United States do not occupy homes containing more than six or eight rooms.

Why should a tariff be imposed on lumber? A tariff should be levied on lumber in order to protect a great domestic industry and to preserve for our people who are engaged in the lumber industry, both labor and capital, the home market for that product.

The lumber industry is one of the great industries of the country. It has contributed millions to purchase the farmer's products; it has helped in building our towns and cities, and given useful employment to its hundreds of thousands of workmen. If we were to ignore an industry of this magnitude and of this extent, then we should turn our backs upon all American industries, because there is none of greater importance in the comparative amount of investment or in the number of people employed who earn their daily livelihood in connection with the industry.

We must have prosperity in this industry, because it contributes to the support of the people who are engaged in other industries. Should we paralyze the industry, or permit it to be paralyzed and destroyed by foreign competition, we would thereby curtail the market for the products of the farm, force unemployment and loss of a valuable unit in our industrial life. And this consequence and disaster, if it should come, would be because some preferred giving the foreigner an advantage over the American, that the foreigner could have an advantage in the American market.

Mr. President, reference has been made to the present competition from Russia in the lumber trade and the possible future competition in lumber products coming from that source. It is true that up to the present time, comparable with the great quantity of lumber which is produced in America, the percentage of importations from Russia is not large; but it is only very recently that an intensified effort has begun to be made in Russia to produce lumber and to ship it into the various markets throughout the world. They have already preempted to a considerable degree the lumber market in a number of foreign countries, and they are now attempting to build up a trade in America and to occupy the American market as one of the greatest outlets for their lumber products. I do not think there is any hoax about that or that there is any scarecrow about it; it is such a reality that a serious situation stares the American lumber industry in the face at this moment. In January, 1929, the imports of lumber from Russia were 3,524,000 feet, but one year later, during the month of January, 1930, the importations from Russia had increased to 10,622,000 feet. The lumber thus imported is brought in to our eastern ports; the importations are increasing, and necessarily under their communistic system of operations in the manufacture of lumber and in other industries, including farming, they can sell lumber at a much cheaper price than the American producer can afford to sell his lumber. Yet some of our friends would continue to subject the American lumber industry not only to the possibility but to the probability of Russian lumber, to a considerable extent, supplanting the use of domestic lumber, not only lumber produced in my section of the country, but lumber produced in other sections of America. So why not levy a small duty of a dollar and a half a thousand on lumber in order to protect this great industry?

Some believe in waiting until the horse is out of the stable before closing the door, but that is not a wise policy. When, Mr. President, you see that some foreign competitor has designs upon the American market and American trade, and that his purpose and his object are to deprive our people of that trade to which by all the laws of reason and justice and equity they are entitled, why sit supinely by and wait until they have taken away our trade and driven many of those engaged in the industry from the field which they are justly entitled to occupy and to enjoy.

I think that we could very reasonably fix a duty of $1.50 a thousand, and if it shall be reflected in the price of lumber it will hurt no one; but it will be of ultimate assistance to all the people of the United States, because it will keep alive one of the great industries of America which employs vast numbers of laborers and insures, through the labor thus employed and to those otherwise engaged in the industry, a purchasing power which is of wonderful assistance to the farmer at his countryside and to various business enterprises in all the towns and cities of the country.

While the tariff asked would help to preserve the home market, I feel sure it would not increase the price of lumber. I believe that we should preserve the domestic market for American producers and that we should foster the interests of the great army of laborers who are engaged in the industry, and not only aid them directly but reflect the benefits into various other channels, as is the case when we maintain the prosperity of any great industry in our country.

Mr. HAWES. Mr. President, on a previous occasion I opposed a duty on lumber, but I have changed my mind and shall vote for the amendment now proposed—a duty of $1.50 a thousand feet. I have changed my position in opposing $2 because of the unemployment situation, though I realize that is a subject which we should not emphasize, particularly at this time, when the agencies of the Government and of business are trying to correct an appalling and unhappy situation.

I not only opposed a duty on lumber heretofore but I wrote very frankly to those in my State who favored it, explaining in detail the basis of my opposition. I should like to send to the desk and have read two telegrams. One of these telegrams is from a manufacturer, Mr. M. B. Nelson, of the Long Bell Lumber Co. This telegram is from a business man of high standing and fine integrity; and I am sure he would not exaggerate conditions in order to secure benefit for his particular company or his particular interest. I rely upon the statements of this manufacturer; and I ask to have this telegram read.

The PRESIDING OFFICER (Mr. GLENN in the chair). Without objection, the telegram will be read.

The Chief Clerk read as follows:

KANSAS CITY, MO., *March 8, 1930.*

Senator HARRY B. HAWES,

United States Senate, Washington, D. C.:

Our company has been in the lumber business for 55 years and is now facing critical situation in matter of production. We are also advised as to the gravity of the situation among our rivals in the same trade. We have thousands of men who have been employed in our plants for many years. They have families dependent upon them, and we are doing our best to keep them employed. Some plants are working their men only four days per week. Others, in order not to reduce the pay envelope, are working them longer for the same money. It is the best we can do. We hope that prosperity is on the way, but it is not here now. Unless something is done some of the plants may have to shut down, throwing thousands of men out of employment, putting them in competition with other industries in which they have not skilled as workmen. Under present laws we can not present our case to the Tariff Commission. Unless we are put upon a tariff basis it may be years before we can be heard. I urge you, therefore, in fairness, to reconsider your vote, not only for the lumber business but in the interests of the unemployment situation, and, in addition, give us an opportunity for presenting our case to the Tariff Commission. I am sure if the Senators understood the gravity of the lumber situation they would at least place us in a position to present our case later on to the Tariff Commission. Understand some Senators indicate a willingness to vote for tariff on lumber if rough lumber from Canada excluded. Can see no justification for admitting rough lumber from Canada or elsewhere free. American manufacturers are experiencing great

difficulty in finding market for rough and low-grade lumber, so if rough lumber from Canada is placed on free list it will enable them to continue taking business from American manufacturers, making it more difficult for the lumber industry.

LONG BELL LUMBER CO.,
M. B. NELSON, *President.*

Mr. HAWES. Mr. President, not only the matter of unemployment but the appeal to be placed in a position to present this subject to the Tariff Commission influences my judgment.

Under the present tariff law a product must first carry a duty before it can be considered by the commission. Usually we have a revision of the tariff every 10 years. If that custom prevails in the future, these manufacturers, no matter what future developments may be, no matter how many may be out of work, and they will have no forum, there will be no place where they can tell their story; so that also had its effect upon me.

If the telegrams which I am about to ask to have inserted in the RECORD all came from manufacturers, I could see that there would be one point of view; but approximately one-half of the telegrams I shall ask to have presented for the RECORD come from retail lumber dealers' associations—men who sell lumber, not men who make lumber. I have heard no protest that comes in any great volume against the effort of this great industry to find a place where it may be heard in the future regarding the welfare of their industry.

Mr. President, I do not feel justified in casting a vote in the Senate which will increase the unemployment situation, which may put men out of work or keep them out of work. These recent telegrams convince me that the lumber mills of the country are running only some four days a week, and in other cases on shorter time, to keep their workmen together and to support their families. So, on the two grounds I have named—first, the matter of unemployment; second, the matter of placing this industry in a place where it may be heard before the commission—I shall vote for the $1.50 duty.

I ask that the telegrams which I send to the desk may be inserted in the RECORD as part of my remarks.

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

The telegrams are as follows:

KANSAS CITY, MO., *March 12, 1930.*

Hon. HARRY B. HAWES,
Care United States Senate Office Building:

We are engaged in retail distribution of lumber in a large way in Kansas City and other Missouri, Oklahoma, and Kansas points. We favor a duty on foreign lumber coming into United States in protection of our own business and the men employed in the industry. The industry at present time is suffering both from overproduction and diminished consumption. Mills are working less than full time and consequently employees are getting less than full earnings. Anything that would aid in changing this unfortunate situation would be helpful. There is sufficient unemployed capacity to produce lumber in this country to oversupply our consumptive needs. We do not fear a duty of $2 per thousand on lumber would unfavorably affect our situation or that of any other distributor of lumber, but feel it would aid the whole industry and be helpful to us.

BADGER LUMBER & COAL CO.,
L. L. SEIBEL, *President.*

ST. LOUIS, MO., *March 8, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

Thanks for telegram re lumber tariff. As you know, this company operates sawmills and retail and distributing lumber yards in the States of Missouri, Illinois, Arkansas, Louisiana, and Texas, employing about 10,000 men. During the past year have accumulated in excess of 1,100 carloads lumber now stored in sheds and shed capacity practically exhausted. Our mills have actual capacity to ship 12,000 carloads lumber per annum. During 1929 actually shipped 8,166 cars. January and February shipments show even further shrinkage, and present conditions indicate year 1930 shipments will not exceed 7,000 cars. Conditions now affecting lumber industry are causing short-time operation and reduction in number employees, with consequent unemployment. Lack of demand indicates lumber industry will be forced to still further curtail operations. Conditions affecting our operations typical of those affecting all larger mills. Many smaller mills already entirely shut down. Our operations provide sole means livelihood some 50,000 souls, all of whom the greater part of past year have felt the pinch of part-time or total unemployment.

FROST LUMBER INDUSTRIES (INC.),
E. A. FROST, *President.*
R. B. BEARDEN, *General Sales Manager.*
C. W. NELSON, *Vice President.*

KANSAS CITY, MO., *March 7, 1930.*

Senator HARRY B. HAWES,
Care of Senate Office Building:

Because of restrictions in consumption due to general financial conditions and because of competition with Canadian lumber and other foreign woods in our domestic markets, which emphasizes the present unfortunate condition, our present operations in the West are on 60 per cent operating basis. While our men are all employed, they are employed at their normal wage rate; but they are working on reduced time of employment, which means a loss to them of more than $12,000 per week in pay roll. This also true in our southern plants; the loss in dollars of pay roll is less, because the operations are smaller, but the men are losing proportionately. I only regret that the duty proposed in bill is not more than it is. While $2 will help, $4 would be of greater assistance.

CHAS. S. KEITH.

KANSAS CITY, MO., *March 7, 1930.*

Hon. HARRY B. HAWES,
Senator:

Understand tariff schedule on lumber will again be voted on this week. The lumber business is in a very precarious condition; mills are running on four and five days per week and are increasing the large surplus stocks of lumber on hand. The principal item of cost in the manufacture of lumber is labor. Reduction in wages for labor is not feasible to such an extent as to solve the problem; besides, to put into effect decrease in wage schedules sufficient to furnish any material relief would create a very bad economic condition. It seems vitally necessary to the industry to have lumber definitely included in the tariff bill. Kansas City is the home of a large percentage of lumber manufacturers. All are much interested in having you come to our relief.

W. A. PICKERING,
President Pickering Lumber Co.

KANSAS CITY, MO., *March 7, 1930.*

Hon. HARRY B. HAWES,
United States Senate, Washington, D. C.:

An appeal has been made to Congress by the lumber industry for a tariff on lumber. I am thoroughly convinced that there is the greatest need for this. Actual production of lumber exceeds actual demand, and has exceeded it for at least the last five years. Potential production is far in excess of either actual or potential demand, consequently sawmills throughout the country are operating and have for many months past operated on schedules far below normal, thereby creating a situation disastrous not only to the operating companies but to their employees. This company owns two pine manufacturing plants in eastern Oregon, which in 1925 produced over 82,000,000 feet of lumber. Year by year since then production has been steadily reduced until last year the production equaled only 40,000,000 feet. Naturally the number of wage earners and total wages paid have reduced correspondingly. One of the two plants mentioned has not operated at all since last December. No change has taken place in the properties, and they are capable to-day of producing the same quantity of lumber and giving employment to the same number of men as in 1925, but it is impossible under conditions now prevailing and which have long prevailed within the lumber industry to sell without loss normal plant capacity. Under such conditions, detrimental alike to employer and employee, it would seem that the soundest reason exists for giving the lumber industry and its employees the protection which the tariff would afford.

BOWMAN HICKS LUMBER CO.,
GEO. R. HICKS, *President.*

ST. LOUIS, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

We feel sincerely that American labor should not be forced to compete with low-wage countries, and, as a result, believe there should be a tariff on lumber.

S. W. CRAWFORD LUMBER CO.,
LEON HARRICK, *President.*

ST. LOUIS, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

We believe American lumber industry entitled to tariff protection.

SHELLABARGER LUMBER CO.,
HARRY SHELLABARGER, *President.*

ST. LOUIS, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

We believe there should be a duty on lumber to protect American labor.

C. J. REINECKE LUMBER CO.,
C. J. REINECKE, *President.*

ST. LOUIS, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

We favor a duty on foreign lumber in protection of our own business as well as the men employed in the industry.

BAY BROS. LUMBER CO.,
M. C. BAY, *President.*

KANSAS CITY, MO., *March 12, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

We believe a reasonable duty of $2 or $3 per thousand on lumber coming from foreign countries into United States would be of benefit to general business. The lumber-manufacturing industry is in a deplorable condition. Mills are working only part time and employees are paid accordingly. By this process their earnings are diminished. Merchants suffer account of this condition. We believe full, or nearly full time, operation would stimulate trade, also causing the use of more farm products, thereby helping the farmers. We operate retail yards in various places in Kansas and Missouri.

LEIDGH & HAVENS LUMBER CO.,
N. O. SWANSON,
Vice President and General Manager.

ST. LOUIS, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

It is our firm belief that there should be a duty on lumber, as surely American labor is entitled to protection against low-waged labor of foreign countries.

BOECKELER LUMBER CO.,
GEO. F. KRUEGER, *President.*

KANSAS CITY, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
Senate Building, Washington, D. C.:

This company, a Missouri corporation, is engaged in the retail distribution of lumber in the State of Texas. We favor duty on lumber coming from foreign countries in protection of our own interests as well as those employed in the industry. Manufacturing plants in this country can supply the present needs, as they are not at the present running full time, which is causing more or less hardship to employees on account of being unable to work regularly. A duty of $2 per thousand would not unfavorably affect our situation nor that of other concerns in similar business.

W. C. BOWMAN LUMBER CO.

KANSAS CITY, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

We favor a duty on lumber. We are retail lumber dealers and know that the men at the mills now have only part pay because the mills are not operating full time. The lumber-producing capacity of the United States is sufficient to take care of the country's lumber needs, and, therefore, a tariff would protect the interests of the mill workers and the country as well.

KING LUMBER CO.,
W. EUGENE KING, *President.*

MONROE CITY, MO., *March 13, 1930.*

Senator HARRY B. HAWES,
Washington, D. C.:

We are operating several retail lumber yards in Missouri. We ask you to use your influence in placing a tariff on lumber from other countries.

J. D. ROBY.

KANSAS CITY, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
United States Senate, Washington, D. C.:

We earnestly urge your support lumber and shingle tariff for protection against increasing importations, both items from countries which place much lower value on both their labor and timber. We are loggers, mill operators, wholesalers, and retailers, and think our situation typical others our industry. Depressed condition largely due excessive importations, resulting in part-time operations and consequent heavy loss to labor and increased production costs. We believe reasonable tariff will result in return of prosperity to both labor and investors this industry without adding to consumers' cost. Have discovered no lumbermen opposed except those investing beyond frontiers.

M. R. SMITH LUMBER & SHINGLE CO.

KANSAS CITY, MO., *March 13, 1930.*

Hon. HARRY B. HAWES,
Senate Office Building, Washington, D. C.:

We operate several retail lumber yards located in Missouri, Kansas, and Iowa, and favor duty on lumber coming from foreign countries into United States. Our own interests and interests of the men employed lumber industry generally in urgent need tariff protection. There is ample capacity of manufacturing plants in United States to produce substantially more lumber than being consumed. Do not think duty of two or three dollars per thousand on lumber would have any detrimental effect our situation as retail distributor of lumber.

BLAKER LUMBER & GRAIN CO.
E. T. PRICKETT, *President.*

KANSAS CITY, MO., *March 12, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

We operate a retail lumber yard in Kansas City and favor duty on lumber coming from foreign countries into United States in protection of our own interests and interests of the men employed in lumber industry generally. Do not think duty of two or three dollars per thousand on lumber would have any detrimental effect on our situation as retail distributors of lumber.

H. B. MCCRAY LUMBER CO.,
By H. B. MCCRAY, *President.*

KANSAS CITY, MO., *March 12, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

As retail lumber dealers having yards in Kansas City and other points in Missouri, Oklahoma, and Texas we favor a duty on lumber coming from foreign countries. We know that lumber mills are working only part time now, and that means less than full-time earnings for the workmen. The lumber manufacturing capacity of this country is more than ample to meet the lumber needs of the United States.

F. N. DANIELS,
President Dascomb Daniels Lumber Co.

KANSAS CITY, MO., *March 12, 1930.*

Hon. HARRY B. HAWES,
Senate Office Building:

I hope that you can consistently vote for a tariff on lumber. During 40 years manufacturing and wholesaling lumber, mostly in the South, have never known a time our American lumber manufacturers and their employees needed protection more than they do at this time. Have owned small amount of timber in Oregon 17 years which would like to develop, but realization for past several years would not justify doing so. Under present conditions see no hope of developing in near future.

J. M. BERNARDIN.

KANSAS CITY, MO., *March 12, 1930.*

Hon. HARRY B. HAWES,
Care United States Senate Office Building:

We are doing a retail lumber business in Kansas City. We favor a $2 duty on foreign lumber coming into the United States, because it would protect our business and men engaged in the industry. The industry is at present encountering a combination of overproduction and curtailed consumption. Anything that would aid in adjusting this situation would necessarily be helpful. There is more unemployed capacity in this country than necessary to take care of United States consumptive requirements. We would like to state that we not only favor this duty on lumber, but we feel it would be helpful to the whole industry and also helpful to us.

BERKSHIRE LUMBER CO.,
BEN BERKSHIRE, *President.*

KANSAS CITY, MO., *March 12, 1930.*

Hon. HARRY B. HAWES,
Washington, D. C.:

We are retailers of lumber and shingles in Kansas City. We favor a duty on lumber and shingles coming from foreign countries into United States in protection of our own interests and interests of the men employed in the lumber industry. The industry at present is in a deplorable condition, mills are working less than full time. Men are getting less than full pay because of short operating time, and anything that would change this situation would be helpful. There is ample capacity to produce all the lumber needed in this country. We feel that a reasonable duty of two or three dollars per thousand on lumber would not in any wise unfavorably affect our situation or that of any other retail distributor of lumber, and should help create a demand for labor.

SOUTHWEST LUMBER CO.,
JAS. A. RYAN.

KANSAS CITY, MO., *March 13, 1930.*

Hon. HARRY B. HAWES:

We are retailers of lumber and shingles in Missouri and Kansas. We favor a duty on lumber and shingles coming from foreign countries into United States, in protection of our own interests and interests of the men employed in the lumber industry. The industry at present is in a deplorable condition. Mills are working less than full time. Men are getting less than full pay because of short operating time and anything that would change this situation would be helpful. There is ample capacity to produce all the lumber needed in this country. We feel that a reasonable duty of two or three dollars per thousand on lumber would not in any wise unfavorably affect our situation or that of any other retail distributor of lumber, and should help create a demand for labor.

ADAIR LUMBER CO.,
J. L. WADDILL.

Mr. GLASS. Mr. President, we have had illustrated here to-day more sharply, perhaps, than at any other time during the discussion of this tariff bill, the thing that some of us intermittedly have tried to impress upon the Senate; and that is, that nobody stands ready to speak for the great consuming public.

I venture to say that for every one man in the milling business, there are a thousand men who are building homes or who want to build homes; and if there is in the tariff bill any one item that bears more heavily than any other item upon the poorer classes of people in America, it is this proposition to put a high tariff tax upon the only building material that the poor man may be privileged to use in the construction of his home.

The average poor man can not afford to erect a brick mansion or a stone dwelling for his occupancy. His limited means compel him to use the cheapest material that may be obtained to cover the heads of himself and his family. The poor man must necessarily put up a building of planks; he must necessarily buy the very cheapest character of millwork; and yet we forget this man who wants to provide himself with a home, and we have advanced here the extraordinary doctrine that the depression in the lumber trade is due to the lack of a tax on lumber!

Mr. President, if the millions of people in this country have ceased to build homes with lumber in a depressed state, how may it be hoped that they will at once begin building homes when we put a tax on lumber, and they are compelled to pay more for the product? Yet that is the extraordinary contradiction in terms that we have presented here.

Again, Mr. President, we have set up a costly bureau of the Government here in Washington, called the Reforestation Bureau, to supply by artificial means the deficiencies brought about by the depletion of our forests. We appropriate millions of dollars for reforestation; yet there is nothing on earth that would more certainly and more rapidly contribute to this very enterprise than the admission of foreign lumber into the United States.

I, too, have telegrams from men who own forests, from men who manufacture lumber, and from lumber merchants, asking that this imposition be put upon the consuming public in their behalf—men of large influence in my State—but I can not get the consent of my judgment or conscience to tax the thousands, aye, the millions of poor people of this country who are confined to the use of this particular material for their homes, in order to multiply the profits of men who are in the lumber business.

Oh, we have the pathetic plea for employment for the laboring man. It is the laboring man that we are proposing to tax. What greater right to our consideration has the laboring man employed in the lumber business as contrasted to the thousands and tens of thousands of laboring men in this country not employed in the lumber business? What right have we to take out of the pockets of the poor people who are not employed by lumbermen their money in order to contribute it to the employees of the lumbermen, assuming that one stiver of it ever gets into the pockets of an employee of the lumbermen?

Not only is it a terrific hardship upon the poorer classes of people in the populous sections of the country, but it is especially a hardship upon the agricultural classes of the country.

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

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

Mr. GLASS. I do.

Mr. WALSH of Massachusetts. I desire to call the Senator's attention to the hardship the proposed duty will be to the buyers of furniture, also.

Mr. GLASS. Oh, yes. It permeates every avenue of the building trades. I do not make any special plea for the man who is able to build a brick house or a stone residence. He is not very greatly concerned in this particular item of the tariff bill, and yet he is taxed from the foundation to the roof. We came here in behalf of farm relief. Brick and cement have come to be the great staple products of the farm since we started the consideration of this tariff bill. He is taxed on his stone, he is taxed on his bricks, he is taxed on the cement that goes into the construction of his house, he is taxed on his window glass, he is taxed on his roof—we will have before us next the question of shingles—he is taxed on his furniture, he is taxed on the looking-glass into which he looks to comb his hair. Now, it comes to this point, that we are to preserve our forests, that we are to create a revival in the building industry of this country by making it more costly for the poor people who have to build houses to shelter their heads to get the lumber with which to build them.

I have not changed my mind, and I do not intend to change my mind, however many telegrams I may get from the lumber manufacturers and the lumber merchants of my State. I am going to vote against the proposition.

As to the countervailing duty proposed by the Senator from New York, I would have been glad to vote for that, standing alone, because I believe in reciprocity with Canada, and, aside from that, I believe it is inherently just to tax the products of another country when that country insists upon taxing our own products. But it does not stand by itself. Therefore I shall not vote for the amendment as proposed.

Mr. NORRIS obtained the floor.

Mr. WALSH of Massachusetts. Mr. President, may I ask a question of the Senator from New York before the Senator from Nebraska starts his remarks?

Mr. NORRIS. Certainly.

Mr. WALSH of Massachusetts. The proviso of the Senator from New York makes no provision for applying countervailing duties to finished lumber. I ask the Senator if he would be willing to strike out from his proviso the following language:

> In the rough or not further manufactured than planed or dressed on one side.

If that language were omitted, then the countervailing duties would apply to both rough and dressed lumber. With this language in, the duty would apply to a very large percentage of the lumber consumed in this country.

Mr. COPELAND. I shall be very glad to study the proposed amendment, and will talk to the Senator about it.

Mr. NORRIS. Mr. President, we have been reading recently in the public press that unemployment has about disappeared. The President of the United States announced that in 60 days it will have gone; that everybody will be employed. We have read from other quarters that we were having wonderfully prosperous times; that everybody was happy.

When any member of the association known as "Sons of Wild Jackasses" dares say in the Senate or on the public rostrum that times are hard, that people are not prosperous, that there is some unemployment and some suffering, we are denounced as bolsheviks. It is said that we are putting before the American people a despairing picture of distress; that we ought to look up, be cheerful, and happy.

However much we may be impressed with that argument, we have, nevertheless, in the Senate of the United States been listening now for several weeks to the stories of distress, not coming from the so-called wild men of the West, not coming from those who have been denounced for picturing an evil day in the future, but coming from big business all over the United States. We have been listening to the picture of despondency, the picture of hard times. The manufacturers of New England have been telling us how they are suffering, how their employees are unable to live, how the unemployed class is going to increase, how distress is pervading the homes of millions of workmen.

The oil men have told us that destruction is just here for the oil business; that that great industry is to be wiped out. Despondency is pictured in their words, telling us the doleful tale of despair that comes to that industry.

Then we come to the sugar men, all of them ready to go into bankruptcy.

Mr. WALSH of Montana. Mr. President, speaking of the oil men, I remember very distinctly that the former Senator from Oklahoma, Mr. Harreld, in discussing that very issue in 1922, told us that destruction and ruin were sure to come if we did not put a duty on oil.

Mr. NORRIS. Yes. Then the lumbermen have said this great industry, which reaches all over the United States, with lumberyards in every little hamlet and every town, is about to go out of business; that the lumber industry must be helped.

Last night we voted a tariff of 127 per cent on lace, which some of the girls and women of the country would like to buy to put upon their dresses and their clothing.

I might go on all through the list. There is no one left who is happy; everybody is despondent; everybody is going to destruction; everybody is going into court and ask for the putting into effect of the laws which will release him from his debts. Nobody can pay. Everybody is down in the dumps. Prosperity has not been heard of or seen in the Senate for the last three weeks. Everybody is bankrupt, and the remedy for every one of these ills is the placing of a tax on the necessaries of life. "Give us a tariff and we will be happy."

I have no doubt these men believe that, but look at the picture in a broad light. How in the world can we pull ourselves over the fence of despair by our boot straps? It can not be done. Economically we are undertaking to do something that is an impossibility, and the Senator from Virginia has so well and eloquently pointed out that we are going to help the farmer by taxing everything he uses. We are going to tax the chairs, the table, the wooden bed, the shed, the chicken coop, the hog pen, the barn, the home, and the wagon box. We are going to add to the price of these things. We are going to increase the price which must be paid for the clothes the people wear. We are going to do it for their benefit, in the name of labor and in the name of the American farmer. We are going to increase the price of everything he must buy. That is the way to make him happy. That is the way to make him prosperous. That is what the tariff bill is going to accomplish.

If there is an instance where we ought to be careful, not only for the man on the farm but the laboring man in town. We ought to make it easy, if we can, for every young married couple who want to buy a home and rear a family; to do so without mortgaging their entire future life to pay for it.

Lumber ought to be free of duty. Yet we are going to add to its price; we are going to add to the cost of every home builder in the land. We are going to levy a tribute upon him in the name of the laboring man, and every laboring man in the United States who is hoping—and hoping against hope, if we are to have such tariff legislation—hoping that for his children and his wife and himself, he may ultimately be the owner of the home, ultimately be the owner of the fireside where his little group gathers at eventide. We are blasting that hope in the name of the very man whom we are striking down.

Mr. President, the end of the lumber business in the United States is in sight. We can see the industry disappearing, as far as the manufacture of lumber is concerned. Its end is almost here. A wise legislator, not only because he would want to cheapen the cost of homes and the industries of the United States but because he would want to preserve the natural resources of the United States, ought to be glad to have the consumers of lumber use the other fellow's lumber instead of ours whenever he can.

Not only should we be for free lumber because it would make nearly everything in every home and on every farm cost less to our toiling masses but we would be preserving something for the children who will follow us, and who will look over the wastes of despoiled forests, and wonder why their forefathers were so shortsighted.

The Senator from Missouri has announced that he has changed his mind, that he is going to vote for a tariff on lumber, and he gives his reasons. He has a letter read from a lumberman. He has put into the RECORD telegrams from lumbermen which I have not heard read.

Are we to legislate only for one class? That is what we are doing. Are we to forget the millions and the tens of millions who live now, who have a direct interest in this particular schedule? Are we to forget every man and every family trying to own a home, and help to make this a nation of homes, rather than of renters and tenants?

We listen to the voices of a few who have a financial interest, or perhaps they think they have; I doubt it in these cases. They want to make the lumber duty high, to keep out of competition foreign lumber. They want to build up the duty so high that the consumers of the country will be absolutely helpless.

For every telegram of a lumber dealer or a lumber manufacturer there are millions of poor people unrepresented here praying to-day that the Senate may not tax them and their homes, and also destroy the natural resources of the country, and thus levy a tax upon posterity.

Mr. McNARY. Mr. President, I have no illusions concerning the effect these debates will have upon the vote to be taken on the pending amendment. From a personal knowledge I think the minds of various Senators are made up concerning their attitude thereon. But one of the strange phenomena in the consideration of a tariff bill has been the reluctance of Congress adequately to protect this great industry. The House refused to take it off the free list and put it on the dutiable list. The Senate up to this time has refused, probably on account of the strength of the coalition and those who are not fully advised concerning the subject matter.

I have been told by those familiar with statistics in connection with the lumber industry that there are $14,000,000,000 invested in it. It is a commercial industry in more than 20 of the States. I see on the other side of the Chamber my very intellectual and able friend from Virginia [Mr. GLASS], who has discussed one phase of the problem. In his State, which I love to frequent and to visit, lumber is a real industry. Lumber can be made a better industry in Virginia if it is protected from ruinous competition.

Mr. GLASS. Mr. President——

The VICE PRESIDENT. Does the Senator from Oregon yield to the Senator from Virginia?

Mr. McNARY. I yield.

Mr. GLASS. The poor people who have to build homes in Virginia constitute a great industry, too.

Mr. McNARY. It is usually a pleasing statement of some one who has really no argument against the proposition to talk about the poor folks at home. In my opinion what makes the poor folks at home and what would make them still poorer is such a policy of free trade as is advocated by the very able Senator from Virginia.

Mr. GLASS. Oh, no; I do not advocate a policy of free trade. I do not advocate it always.

Mr. McNARY. I know the Senator does not altogether.

Mr. GLASS. I do advocate a policy of free trade in relation to such a thing of common use as lumber.

Mr. McNARY. I want to be very cordial to my good friend from Virginia, but I have just a few minutes and I would prefer to make my own argument.

Mr. President, if there is anything in the principle of protection and any benefits are to be derived therefrom it should be applied to the lumber industry. In the name of good sportsmanship and fair play there is no reason to deny this great industry the protection it so badly needs.

With the great investment about which I have spoken, there are three-quarters of a million workers to-day in the country dependent upon forest products and their conversion. Nearly $1,000,000,000 is paid annually in wages to this great group. I venture to say, and I am sure without successful contradiction, that there is not an industry in America to-day depressed comparably with the lumber and timber industry. I speak not only from what I have heard on the floor of the Senate but I have personal knowledge as I come from the State which has the greatest stand of timber of any of the States in the Union.

I want particularly to address myself to the arguments of the Senator from Virginia [Mr. GLASS] and the Senator from Nebraska [Mr. NORRIS] concerning the question of reforestation. These able gentlemen proceed upon the theory that the only way to preserve the forests is to lock them up and forget them. Mr. President, that is the surest way in the world to destroy this great industry. The surest way to bring about reforestation, which is referred to by the Senator from Nebraska, is to make possible a utilization of the forests in private hands. What are we as Senators thinking about, Mr. President, in connection with our Federal Government? The Government itself owns about 187,000,000 acres of timberland. Are we going to let that timber rot and fall into disuse or are we going intelligently to utilize the products of these forests?

I have no doubt, from having studied the problem as chairman of a select committee which went throughout the country, that if a tariff were placed upon lumber to prevent the competition from Canada of 1,500,000,000 feet a year, a less but a rapidly growing quantity from Russia, and if the millmen can profitably operate their mills and the logging men the logging camps, then reforestation will be secured, and that will be the only way for this country ever to become self-sufficient in connection with its forest growth and development.

If the owners of the forests and the operators of the mills could keep out the foreign competition which is too much for the American market to absorb, a little profit would come to them, sufficient to justify them in replanting the cut-over lands and restore the forests. That process is now largely under way. If we are going to prevent the progress of the operator of the mill and deny him an opportunity to make a profit or a living for himself and his employees, he has no money with which to reseed and replant the denuded and cut-over lands.

I know, Mr. President, that the Government itself is expending large sums in attempting to encourage replanting and replacement of our trees. A bill which is on my desk carries a large sum for forest-fire protection. With protection from fire and insects, with an assured profit and freedom from congested markets, there can be no doubt that the Government would extend its activities and the private owners would enlarge their activities also in connection with the growing of

our forests. This is an annual crop. It takes some years to mature, but when the trees are matured they should be cut and cropped.

The Chief Forester of the Forest Service has estimated that in the public forests alone of this great stand of 175,000,000 acres 20 per cent of the trees are overripe and unfit for use. To take the trees now maturing and by the process of intelligent logging replace them we can maintain our forests during all the years. But the able senior Senator from Nebraska [Mr. NORRIS] says we should not use our forests, that we should obtain our timber from elsewhere, which would mean ruin not only to the forests but to those engaged in the business.

My good friend from Virginia [Mr. GLASS] talks about the poor man who has to build a hen coop on the farm. It is my judgment and the judgment of those who have given the subject very serious consideration that the economies which would be practiced, the wastage that would be avoided by the converters, will permit the sale of lumber without any additional charge to the consumers thereof. If those men are employed at full time it will, on the other hand, furnish a large group that will absorb the products from those who are now engaged in agriculture and other industries.

Mr. President, I would not longer detain the Senate save for the fact that I have here a letter from the Governor of the State of Oregon, Hon. A. W. Norblad, which I desire to have read at the desk.

The VICE PRESIDENT. Without objection, the clerk will read, as requested.

The legislative clerk read as follows:

STATE OF OREGON, EXECUTIVE DEPARTMENT,
Salem, February 26, 1930.

Hon. CHARLES L. MCNARY,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCNARY: Along the line of the conferences called by President Hoover in December, I recently called an economic conference at which representatives of labor and industry, county and city officials, and leaders in various lines of activity in Oregon gathered to discuss ways and means of promoting construction and averting unemployment to the end that the prosperity of the State may be maintained and advanced. This conference confirmed my already strong conviction that one of the major reasons for unemployment in this State is the present depression in the lumber industry.

Oregon is the most heavily timbered State in the Union, and our general prosperity is based very largely upon the lumber industry which produces 60 cents of every dollar coming into the State. During the past eight months we have had a great deal of unemployment in logging camps and mills due to the inability of our people to meet competition from Canadian and Russian mills that operate under conditions not comparable to those of our mills which must employ American labor and pay wages which will permit of their employees living up to American standards.

The lumber schedule is now before Congress for consideration. As Governor of the State of Oregon, I want to take this opportunity to urge you to do everything you can to assist us in securing this much-needed protection to the end that our mills may be enabled to operate steadily and the many thousands of people who find employment in the lumber industry may be given protection against the product of foreign labor which is at present coming into the United States in increasing volume.

Very truly yours,

A. W. NORBLAD, *Governor.*

Mr. MCNARY. Mr. President, I have two editorials concerning this subject matter, one from the Portland Oregonian and the other from the Oregon Journal, both papers being among the most influential on the Pacific coast and published in Portland. I desire, if I have the time, to have them read at the desk. They are not long, and if my time is adequate I ask that the editorial from the Oregonian may be read first.

The VICE PRESIDENT. Without objection, the clerk will read, as requested:

The legislative clerk read as follows:

[From the Portland Oregonian, February 28, 1930]

PROTECT LUMBER, CONSERVE FORESTS

Softwood lumber, which includes Douglas fir, has another chance to win protection from the Senate, this time with the support of the South in alliance with the Pacific coast. Having been on the free list since 1913, fir, pine, and other softwoods have been exposed to the unrestricted competition of imports from every timber-growing country in the world. Americans have engaged in the lumber business of Canada and have fought to prevent protection of the American lumber industry. Soviet Russia, having confiscated the forests, has begun to flood foreign markets at low prices, in order to swell exports as the means of paying for machinery to equip its socialized industries. Every other lumber country is invading either American markets or the foreign markets which Americans have formerly supplied.

A tariff on lumber is opposed in order to provide cheap building material for the farmer, yet the competition between lumber and other materials is so keen that lumbermen could not obtain excessive prices if they tried. All they ask is freedom from foreign competition. Employing 60 per cent or more of the labor in Oregon, lumbermen furnish the farmers in the vicinity of each mill and logging camp with a home market, but for which farm products would have to be shipped long distances to be sold in competition with products of other States and the world. Depression and in some localities extinction of the lumber industry would cause neighboring farmers to lose far more than they could save on the lumber they buy. Yet insurgent Senators pretend they confer a boon on the farmer when they keep lumber on the free list.

Conservation of American forests by permitting Canada, Russia, and other nations to exhaust theirs in supplying the American market is a plea for free lumber that will not stand analysis. Men who have large capital invested in timber and mills can not shut down without ruin. Their timber would decay or be devoured by fire; their mills and other buildings would depreciate. Taxes would accrue, and there would be no means of paying them. Necessity would compel them to continue operation, but would drive them to cut only the best timber and to pursue methods of logging that destroy much timber and that prevent new growth. Conservation is accomplished by cutting all merchantable timber and by starting growth of a new forest where the old one is cut. This would be done voluntarily by lumbermen under a tariff that enabled them to market the entire product. Conservation would be accomplished through protection.

Congressmen from the prairie States and from States that were long ago denuded of timber vote for free lumber because they do not understand the forest problem or because they are under the delusion that the way to help the farmer is to help him to buy things cheap without regard to the consequence to other industries. The farmer never in modern times bought things so cheap as in the panic years from 1893 to 1897, but he also sold his produce cheap, was in dire poverty, and in many instances handed over his farm to the mortgage company. Timberland was a drug on the market; so was farm land. That should teach that protection of the lumber industry is necessary to protect the farmer's home market and to conserve the forests.

Mr. MCNARY. Mr. President, I send to the desk a brief editorial from the Oregon Journal and ask that it may be read.

The VICE PRESIDENT. The Secretary will read, as requested.

The legislative clerk read from the Oregon Journal of February 28, 1930, as follows:

THE TARIFF AND LUMBER

If the principle of a protective tariff is correct, if it can be defended on any ground, there ought in all fairness and by all the rules of the game to be a tariff on lumber.

The lumber industry in the Northwest is now and has been for years past in a state of depression. It is in a depression in large part because of the importation of Canadian lumber. The home market is not great enough to absorb the product of both Canadian and American mills; the Canadian lumber is produced by cheap labor, and thus it comes into America to supply the markets that otherwise would be supplied by American mills.

The result is a depressed American lumber industry. American workers are now and have been out of work. The buying power of the great lumber industry of the Northwest is reduced, thus reducing the market for farm products in this region as well as the products of all other industries.

There is only one argument for a tariff on any product. That is to protect the industry from competition from products of other nations produced by cheap labor. The tariff is supposed to make the industry profitable, is supposed to provide work for American workers at high wages, and is supposed to increase buying power, thus producing prosperity.

The lumber industry of the Northwest is injured by the competition of foreign lumber produced by cheap labor. It is not profitable under present conditions. American workers are out of jobs. Purchasing power in the great lumber regions is reduced and other industries are injured through the lack of purchasing power of the lumber industry.

If there is to be a tariff on anything, what industry is more in need of it than the lumber industry? If there is to be a tariff, if it is correct in principle, what industry more than the lumber industry meets the requirements for a tariff? If a tariff is to protect any industry, where are the conditions in any industry which more obviously requires a tariff than the present conditions in the lumber business?

If Congress places a tariff on any products, it can not in fairness or in morals fail to place one on lumber.

Mr. MCNARY. Mr. President, in my opinion, these editorials reflect the opinion of the large majority of the people living on the Pacific coast, and I might add that, in my judgment, the same sentiment exists in the South. I shall not longer detain the Senate, my time having expired; but I sincerely hope

that the Senate will adopt the amendment offered by the Senator from Washington [Mr. JONES].

Mr. DILL obtained the floor.

Mr. WALSH of Massachusetts. Mr. President, will the Senator from Washington yield to me in order that I may call for a quorum?

The VICE PRESIDENT. Does the Senator from Washington yield to the Senator from Massachusetts?

Mr. DILL. I prefer not to yield for that purpose.

Mr. WALSH of Massachusetts. Very well.

Mr. DILL. Mr. President, I shall not attempt to discuss this amendment in detail. I believe that the Senate knows what it wants to do on the subject; at least, Senators have made up their minds how they will vote; and, while there are some things I might say, they would, in most part, be a rehash of what has previously been said. For that reason I am not going to take the time of the Senate to discuss the subject at any length and hope we may have a vote promptly.

We are asking for the adoption of an amendment that places lumber on the dutiable list at a rate which is little more than nominal, being on an average about 7 per cent. We realize that will not do much good to the lumber industry; but, if adopted, it will place the industry on the dutiable list and make it possible, if conditions develop showing the necessity of a lumber tariff, for the rate to be raised to an amount that will be of some benefit to the lumber industry. I shall not take more time, and I hope that we may soon have a vote on the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Washington [Mr. JONES].

Mr. DILL. I ask for the yeas and nays on the amendment.

Mr. WALSH of Massachusetts. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. STEIWER obtained the floor.

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

The VICE PRESIDENT. Does the Senator from Oregon yield to the Senator from Washington for that purpose?

Mr. STEIWER. In view of the prospect of an early vote on the amendment, I have no objection to yielding to a call for a quorum, but on my account I do not care about it. However, if the Senator from Washington desires to call for a quorum, I shall not object.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

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

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

Mr. STEIWER. Mr. President, I shall detain the Senate for but a few moments. So far as the advocates of this duty are concerned we are ready now, I think, for the question to proceed to a vote. I would not take any time at all to supplement what I said at the time this matter was thoroughly argued in the Senate upon its former consideration, except for the fact that the debate to-day has exemplified a certain circumstance which also developed at that time, namely, a most amazing lack of correct and sound information concerning the possible effect of the duty proposed. To that one aspect of the case I wish to address myself briefly.

It has been assumed by those who oppose the duty that the imposition of a duty of a dollar and a half per thousand feet will necessarily be added to the price of lumber to the consumer; that there will be an enhancement in mill prices; and that the increase will be followed by an enhancement of retail prices so that the cost will be laid at the door of the consumers of America. In the facts of this case, Mr. President, there is not one circumstance to support that kind of an assumption.

The truth of the matter is that the retail price of lumber in America is almost entirely dissociated from the mill price. If a duty of a dollar and a half per thousand feet should result in an enhancement at the mill in the entire amount of the $1.50 per thousand, I venture the statement that the consumers of America who buy in the retail markets would not know that the tariff existed so far as their lumber bills are concerned.

The wholesale price of lumber at the mill in the Douglas fir district is now some $18 or $19 per thousand, average, and in the southern area the mill price of pine is something like $24, or possibly a little more than $24 per thousand, average. The Douglas fir price in the eastern consuming centers of this country is in excess of $40, and in some of the consuming centers it is as high as $50. The pine price to the consumers of America goes all the way from $70 per thousand up. The very choice grades of pine, select B and better, were quoted in Washington last week, when I made my investigation, at prices from $125 a thousand to $150 a thousand feet. The retail price as between Philadelphia and Baltimore showed a difference of $9 per thousand for identical grades of lumber upon the same day and at the same hour.

If Senators would stop to reflect just a minute, they would see that the burden placed upon the American consumer is not the amount obtained by the miller for his product at the mill. The great burden upon our people comes from the fact that our supplies are located too far from our place of consumption. The thing that we need is growing trees, with reproduction closer to the place where the lumber is going to be used, because at this time we see the unhappy spectacle of the carriers, the brokers, the wholesalers, and the distributors obtaining more of the consumer's dollar than is obtained by the mill man and by everyone with whom he is associated, including his labor and the man from whom he buys his stumpage.

Since 1926 the total deflation in the mill price of lumber is nearly $12 per thousand, and during that time the retail price has remained stationary. These prices in the great eastern markets of $100 and $125 and $150 per thousand stand without change. Think of it, Mr. President! Here is deflation to the producer of lumber of $10 a thousand or $12 a thousand, and the American people get no benefit at all from it. We have changed our tariff duty three times, I think—in 1890, in 1897, and in 1909—and every change that has been made, whether it is an addition or a decrease, has been without effect upon the retail market to the American consumer.

When we are dealing with an average price of pine in the eastern markets of $100 per thousand—and that is No. 1 common—to say that adding a dollar and a half at the mill is going to cost the American people an excessive amount of money merely speaks the lack of understanding of the man who makes the statement.

The inquiry I have made concerning this subject has absolutely convinced me that slight saving at the mill or slight enhancement or depression at the mill is never reflected in the retail market. We have instances of increased price at the mill over a year's time and at the same time decreased price in the retail market; and we have instances of decreased price at the mill and upward trend in the retail market. So I say that if the natural fluctuations at the mill, greatly in excess of the duty now proposed, have not been reflected in the retail price to the American people, it is absurd to think that this little item of a dollar and a half would be reflected.

Why, the conference rate by water from the northwest area—Puget Sound and Columbia River—around to the Atlantic seaboard by the canal and to the points north of Hatteras varies from $8.50 to $14 a thousand. There is a difference there of $6 per thousand; and, so far as I can find, never has that difference been reflected in the retail market. Never does the consumer get the benefit of the low price. Never is he charged the high price. Let me say further in that connection that sometimes the fluctuations at the mill in daily price are two or three dollars per thousand during the day. Sometimes we have during a season a reduction at the mill of three or four dollars per thousand, and the eastern retail prices stand the same.

Why is it that the difference in the retail price between Baltimore and Philadelphia is $9 per thousand? It is not difference in mill cost. They are served by the same rail carriers. They are served by the same water service. It is due, I think, entirely to the competitive conditions at these distributing points; and, after all, the price the American people are paying to-day for their lumber is determined wholly by these competitive conditions. Lumber competes with itself, species against species, grade against grade, softwood against hardwood, State against State, area against area; and then, of course, lumber competes with cement and brick and stone and every other building material in the world. So it seems that the retailers, however much they would desire, are not able to increase their prices

when there is a little enhancement of price at the mill; and when they attempt to do so it merely means that something else is substituted for lumber.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator from Oregon yield to the Senator from Idaho?

Mr. STEIWER. I do.

Mr. BORAH. I should like to ask the Senator who would get the benefit of this tariff?

Mr. STEIWER. My opinion would be no better than that of another; but it seems to me that the first obvious benefit of the tariff is to give the American producer a part of the American market now occupied by our Canadian friends.

Mr. BORAH. That would have to be done by reason of an increase of price, would it not?

Mr. STEIWER. At the mill.

Mr. BORAH. Yes; and that would have to be done by the mill owner selling to the retailer at a higher price?

Mr. STEIWER. No, Mr. President. Evidently the Senator from Idaho did not catch the full force and effect of my suggestion.

Mr. BORAH. Yes; I was following the Senator very closely, but I could not see through it.

Mr. STEIWER. The enhanced mill price is not reflected. The history of the matter shows that a little fluctuation in the mill price is not reflected in the retail price.

Mr. BORAH. I have not said anything about its being reflected in the retail price; but what I say is that the millman must necessarily sell to the retailer at a higher price if he is going to get the benefit of this tariff.

Mr. STEIWER. I attempted to explain that a minute ago. I am not so sure of that. What I attempted to say is that even if the millman does receive a greater price, it will not cost the American people anything; but, if I may be permitted to elaborate that a moment, I think, as a matter of fact, a small duty like $1.50 a thousand will result in a higher mill price so much as it will be in the exclusion of Canadian lumber, and the running of more days at the mill—in other words, that a number of our mills that now run five days a week could run six days, and the mills that run four days could run five days.

Mr. BORAH. They could not possibly do that unless they sold their lumber at a better price.

Mr. STEIWER. Oh, yes, Mr. President! The thing that is destroying them now is their overhead, and this factor does not change. Taxes and interest do not change. If the millers can increase their production by obtaining the benefit of the American market, they will not have to increase their price.

Mr. BORAH. I can not understand what benefit the American market will be to them unless they get an increased price in it.

Mr. STEIWER. Steady operation, Mr. President, more days per week, more production, a cutting down of overhead that comes from more production—that in itself will give to the American miller a greater profit; or, rather, I should say, a smaller loss on his present operation.

Mr. COPELAND. Mr. President——

The VICE PRESIDENT. Does the Senator from Oregon yield to the Senator from New York?

Mr. STEIWER. I am glad to yield to the Senator.

Mr. COPELAND. Is there not a further answer to the Senator from Idaho that the imposition of this tax would cause the manufacturing of this lumber to be done in our country and employ our labor?

Mr. STEIWER. Yes; but the Senator from New York is referring to the effect of the amendment which he himself offered, and which was accepted by the Senator from Washington. The effect of that particular proposal is to admit rough lumber and to place a premium upon manufacture in this country, and therefore a premium upon employment of labor in this country.

Mr. BORAH. The Senator from Oregon could not accept the doctrine of the Senator from New York, because that would be a complete answer to his argument.

Mr. STEIWER. I have accepted it.

Mr. GEORGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Oregon yield to the Senator from Georgia?

Mr. STEIWER. I do.

Mr. GEORGE. May I ask how much of the American market the American lumberman is losing? What are the Canadian imports?

Mr. STEIWER. Does the Senator refer to the amount of the Canadian imports?

Mr. GEORGE. Yes; the amount.

Mr. STEIWER. The softwood importations run about a billion and a half feet per year.

Mr. GEORGE. What is the total import?

Mr. STEIWER. That is the greater part of our importation. The total imports are less, I think, than 2,000,000,000 feet per year of softwood. There are some hardwood importations that we are not concerned about in this discussion.

Mr. GEORGE. What are our exportations?

Mr. STEIWER. Our exports are in excess of 3,000,000,000; but those are total exports of all woods. Our exports of softwood in 1928 were 2,400,000,000 feet, I think.

Mr. GEORGE. Our exports were equal to our imports?

Mr. STEIWER. They were slightly in excess, occasioned by the fact that when a log is cut into lumber it does not all come out the same grade. In the very nature of things, there are numerous grades in that log. Our local markets require a certain amount of lumber in the given grades. In the production of that lumber there is some lumber of odd grades left over, which our producers find that they can export to advantage in order to get it out of our own market. They sell most of it at a loss. They sell most of it in the countries of the world which impose tariff duties upon it. It is not a profitable business, but it is an inevitable consequence of our method of operation. Properly understood, this forced exportation does not prove that the American producer can compete with the foreign producer. It more nearly proves that hard, cruel business necessity compels production to afford realization and to meet obligations. To this situation there is only one answer, a stabilization with a slightly enhanced mill price, produced and maintained by a protective duty.

The VICE PRESIDENT. The time of the Senator from Oregon has expired.

Mr. WALSH of Massachusetts. Mr. President, I should like to ask the Senator from New York [Mr. COPELAND] if he will accept the suggestion I made to him in reference to his amendment, namely, to strike out of his proviso the words "in the rough, or not further manufactured than planed or dressed on one side"?

Mr. COPELAND. Mr. President, I may say in reply to the Senator that I have lost control of my amendment, because it was accepted by the Senator from Washington. I shall be glad if the Senator will address his question to the Senator from Washington.

Mr. WALSH of Massachusetts. Will the Senator from Washington accept that modification?

Mr. JONES. No, Mr. President. It seems to me, the way it sounded, that it practically nullifies the preceding part of the amendment.

Mr. WALSH of Massachusetts. Then I should like to call attention to what the amendment offered by the Senator from New York means. That amendment, I understand, has now been accepted by the Senator from Washington.

The amendment of the Senator from Washington, with the amendment accepted by him, offered by the Senator from New York, still leaves a heavy burden on the consuming public for all so-called-finished lumber, regardless of reciprocal tariff arrangements with Canada. The lower grades only will be admitted free; and the effect will be to increase the price of probably 60 per cent of the lumber consumed in the United States not only by this $1.50 per thousand feet but by the accumulated charges for handling through dealers.

It can be assumed that this will mean a net additional cost to the consumer of not less than $2 per thousand feet for 60 per cent of the lumber consumed. This 60 per cent in quantity would be 18,000,000,000 feet, or an additional cost to the consumer of not less than $36,000,000.

This represents the additional cost on account of duty only. When we consider that if the dressing of the lumber is not done where it is manufactured, it involves one more handling of this product between the producer and the consumer, and thus another middleman is set up, with his expenses of doing business, his unloading and loading of the lumber, and his own percentage of profit, it is safe to say that another $2 per thousand would be added to the cost of the imported lumber, which additional cost would naturally be added to all finished lumber, or a total additional cost to the consumer of $72,000,000 on that class of finished lumber which is aside from the rough lumber.

The Jones amendment places a duty of $1.50 per thousand feet on all softwood lumber, such as Douglas fir, hemlock, Eastern spruce, Western spruce, white pine, Norway pine, hemlock, and larch. This will work out in ad valorem terms as follows:

Low-grade fir or hemlock, the type of lumber used for crating, can be purchased f. o. b. mills for as low as $12 per thousand feet. The highest grade of Douglas fir or hemlock will cost as much as $50 per thousand feet f. o. b. mills, and this type of lumber is used for finished lumber, millwork, and so forth.

The highest grade of Northern white pine, which is used for pattern making, furniture, and various industrial purposes, or

as finished lumber in homes, costs as much as $115 per thousand feet f. o. b. mill. This indicates that a specific duty of $1.50 per thousand feet would represent a range in ad valorem rates of from 1½ to 12 per cent.

If a duty of $1.50 per thousand feet is adopted, the cost to the consuming public because of such a duty—the normal consumption being 30,000,000,000 feet—will be $45,000,000. This, however, when pyramided, amounts to a total of $60,000,000, which consumers of this type of lumber will be forced to pay.

Mr. President, now, considering the general question of a tariff on lumber, I must say that I am astounded at the reply made by the Senator from Oregon [Mr. STEIWER] to the question of the Senator from Idaho [Mr. BORAH].

If the reason for levying tariff duties to help a depressed industry is not to increase the cost to the public, then we are going through a terrible farce here in advocating protective duties. The claim made by the depressed industry is that imports are coming into this country and that they are underselling the domestic producer. The protectionist says, "We will stop that." How? "By increasing the duty so that the importer will have to pay more to get foreign goods into this country than he does now, and that will compel him to charge the public more, and the domestic producer will be able to increase his price in order that we can get more for our goods being now sold below the cost of production."

If there were no imports coming into the country, if part of the American producers were selling on a world basis, I can conceive that the levying of protective duties would not be of any value. But where imports are coming into the country, and the protective duty is increased so as to make the cost of the imported article higher, of course, it is for the very purpose of helping the domestic man, as it ought to be, helping him to increase his price to the public.

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

Mr. WALSH of Massachusetts. I yield.

Mr. BORAH. I understand the position of the Senator from Oregon to be that the retailer will absorb this price, and not pass it on.

Mr. WALSH of Massachusetts. That, of course, is absurd.

Mr. BORAH. I would not say it is absurd, but it is difficult to believe.

Mr. WALSH of Massachusetts. There is just as much sense in saying that the importer will absorb all increases in duty and not pass it on. If that is so, the effect will be that there will be no result from all this procedure, there will be no increased cost to anybody, and the result will be that we are going through the farce of levying protective duties which will benefit nobody.

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

Mr. WALSH of Massachusetts. I glady yield to the Senator.

Mr. McNARY. I appreciate the Senator's kindness. The able Senator from Idaho referred to my colleague, who is not in the Chamber at this time. I do not think the Senator understood my colleague's position.

I think the philosophy of the whole thing is that this tax will not be passed on, but will be absorbed through economies which can be made possible by the manufacturer of the lumber. Through having his men work longer hours, there will be less wastage, greater efficiency, and full employment of the time of the men, and that is where the economy is practiced. In my judgment, if the mills are kept operating full time, instead of partial time, as at present, we will see the disappearance of the so-called tax.

Mr. BORAH. Mr. President, if the Senator will yield further, I hope the Senator from Oregon is correct in his theory, but I have understood, from the lumbermen who have been writing and telegraphing me, and talking with me, that what they hope for as a result of this tariff is an increased price of their product.

Mr. WALSH of Massachusetts. Mr. President, I do not care to argue this proposition at length. It was fully argued on the last occasion when this amendment was before the Senate. I simply want to call attention again to two factors, first, that logs are not included in this amendment, therefore it is expected that logs will come in free, which will give the manufacturers of lumber in Washington and Oregon the benefit of free logs. No other manufacturers of lumber in this country will have that benefit.

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

Mr. WALSH of Massachusetts. I yield.

Mr. STEIWER. Substantially speaking, there is no importation of logs into Oregon. There are imports into Washington. Oregon mills use almost entirely logs produced in Oregon.

Mr. WALSH of Massachusetts. Would the Senator be willing to have a duty placed upon logs?

Mr. STEIWER. There is a duty on logs now, in existing law. A duty of a dollar a thousand has been imposed for years.

Mr. WALSH of Massachusetts. Why is the Senator seeking to have the duty removed, in this amendment?

Mr. STEIWER. I am not seeking to have it removed. It was removed by the Senate committee, and the Senate sustained the action of the committee. Personally, I do not favor that. I would be willing to place a duty on logs. But that is not in this particular schedule, so I am not worrying about it at this time.

Mr. WALSH of Massachusetts. It is of decided benefit to the lumbermen of Oregon and Washington to have logs free of duty, and I have no objection to that, but I am calling attention to the fact that the lumber mills of the South do not get their logs free.

This will mean that only the mills on tidewater in the State of Washington can buy duty-free logs while mills in every other part of the country being so situated that they can not secure these duty-free logs, must therefore operate their own timber and when their supply is gone shut down their mills.

No other manufacturers in the United States, except the Puget Sound mills receive any benefit from duty-free logs. This includes the mills of the South. All the New England States, in fact all the lumber-consuming districts, including all Eastern States, will pay a bounty to the lumber manufacturers in this restricted area of the Northwest who get their logs in free and exclude all lumber which is shipped in from Canada directly north of the great consuming centers.

Not only is this a discrimination against the consumers but it is a discrimination against sawmill operators in all other parts of the country who are unable to take advantage of these duty-free logs.

The only other question I want to stress is the cost to the public. First of all, we have still a specific duty here, $1.50 per thousand feet. As lumber varies in price from about $12 per thousand feet to $100 per thousand feet, we can well understand that this specific duty will be very much more burdensome on cheap lumber, used by the poorer classes in the building of their homes, and used by the farmers in the building of their barns and their sheds and their other buildings.

If this duty is effective, it means a tremendous increased cost to the American public. If the amendment offered by the Senator from New York and accepted by the Senator from Washington succeeds, it will possibly lead to a reduction in that burden, because rough lumber will be admitted free under the countervailing duty with Canada.

Time does not permit me to go into a discussion of whether this industry is depressed or not. I think it only fair to say that there is a great distinction between those lumbermen in the Northwest who have their own logs and cut their own timber and supply their own lumber mills and the lumbermen who must buy their logs in the open market. In my judgment the evidence shows, from an examination of the income-tax returns, that practically all of those lumbermen who own their own timber in the Northwest are prosperous. The lumbermen who are not prosperous—and they are limited in number—are those who have not their own timber, and who are dependent upon the fluctuating price of logs which they have to buy, either from the timberlands of Washington or which they have to tow from Canada and on which they must pay the cost of transportation, which is a decided disadvantage.

Another interesting feature of these returns is the comparison between the companies that do not own their own timber and those companies which do own their own timber. This comparison for the State of Washington only shows the following:

Fifty-three companies buying their timber and logs had sales in 1928 of $51,726,031, profits of $1,130,382, or a percentage of profit to sales of 2.18 per cent. For the 7-year period 1922 to 1928 they had sales of $327,442,742, profits of $11,916,119, or a percentage of profit to sales of 3.6 per cent.

Let us compare these with the owners of timber in Washington. They show sales in 1928 of $101,157,660, or twice as much for the 20 companies as for the 53 companies, profits of $10,699,139, or ten times as much as the profits of 53 companies who were compelled to buy their timber.

Mr. STEIWER. Mr. President, will the Senator permit one more interruption?

Mr. WALSH of Massachusetts. Certainly.

Mr. STEIWER. Our sales to Canada are about 150,000,000 feet, a very small percentage of our total exports.

Mr. WALSH of Massachusetts. Are our total exports 2,000,000,000 feet?

Mr. STEIWER. A little in excess of 2,000,000,000. Only a hundred and fifty million goes to Canada.

Mr. WALSH of Massachusetts. My information is that not all, by any means, of that 2,000,000,000 feet go to Canada, but that a substantial part of it does. I agree that it is not a billion five hundred million feet of lumber, but a very substantial part.

Mr. STEIWER. It is less than 10 per cent of our exports.

Mr. WALSH of Massachusetts. In any event, we have exports of 2,000,000,000 feet and imports of 1,500,000,000 feet, and we produce 30,000,000,000 feet of lumber. It means a burden, as has been said by the Senator from Virginia, to every builder and every user of lumber, and particularly is it burdensome to the furniture manufacturers who sell furniture. One of the telegrams that came to me, unsolicited, was from the chamber of commerce of a city in my State. The manufacturers of furniture in that town voluntarily expressed commendation at the saving to that industry from the burdens that would come if the duty then proposed on lumber were levied upon lumber.

Mr. President, our exports are about 2,000,000,000. There is no dispute about that. This is not a case where the imports into this country are very excessive, where the imports are increasing. On the contrary, the imports are decreasing. That can not be disputed. The imports are decreasing, and the exports increasing, as a matter of fact. Yet, in the face of this evidence, we are asked to levy this indefensible duty upon the American public.

I now move that there be stricken from the pending amendment—the amendment offered by the Senator from New York having been accepted by the Senator from Washington, now becomes his amendment, and I can offer an amendment to it—the words "in the rough or not further manufactured than planed or dressed on one side."

The effect of that amendment will be to make our countervailing duty include all kinds of lumber, not merely the rough lumber but the dressed lumber as well.

Mr. DILL. Mr. President, in other words, the Senator is now offering a countervailing duty on lumber from Canada, all lumber from Canada.

Mr. WALSH of Massachusetts. Exactly.

Mr. DILL. No protective duty whatsoever that Canada does not have.

Mr. WALSH of Massachusetts. What I am doing is not limiting the countervailing duty to rough lumber, but making it apply to all kinds of lumber, and upon that amendment I ask for the yeas and nays.

Mr. BORAH. Mr. President, I want to be sure that I understand the effect of this amendment. Did the Senator from Washington say that the effect of this would be to permit the shipment of lumber duty free between this country and Canada?

Mr. DILL. Yes; if Canada takes off her duty.

Mr. BARKLEY rose.

Mr. WALSH of Massachusetts. Mr. President, I ask for the yeas and nays before the Senator addresses the Senate on my amendment.

The yeas and nays were ordered.

Mr. BARKLEY. I want to ask the Senator from Massachusetts a question. I do not desire to address the Senate, but I should like to inquire whether at the present time the Canadian duty applies to all American lumber, or only to the lumber that is dressed on one side?

Mr. WALSH of Massachusetts. It applies only to lumber that is planed on more than one side.

Mr. BARKLEY. So that the amendment which the Senator has offered would limit any tariff on Canadian lumber to such lumber as that on which Canada itself levies a tariff from this country.

Mr. WALSH of Massachusetts. I think it is broader than that. I think it would permit lumber of all grades and all classes to be interchanged between Canada and the United States without the payment of duty.

Mr. BARKLEY. But unless Canada levied a duty on some additional types of lumber on which there is now no duty, then that lumber would come into the United States free of duty.

Mr. WALSH of Massachusetts. That is my opinion.

Mr. WALSH of Montana. Mr. President, I have been endeavoring to comprehend the significance and importance of this amendment, and I confess that even after the colloquy between the Senator from Kentucky and the Senator from Massachusetts I am not clear about it. May I have the attention of the Senator from New York [Mr. COPELAND], who proposed the original amendment in the nature of a proviso? The proviso applies only to a country contiguous to the United States.

We were told at an earlier stage in the discussion of this matter that there was at this time a very large importation of lumber from Russia, and some one told us about a fence around the Waldorf Astoria grounds in New York carrying an advertisement somewhat to this effect: "This lumber was imported from Russia." Was it the purpose of the Senator from New York to give a preference to Russia as against Canada and Mexico, or was it the purpose to give a preference to Canada and Mexico as against Russia?

Mr. COPELAND. Mr. President, the Senator has made several statements. In the first place, if I may rely upon the gentlemen who are erecting the building where the old Waldorf Astoria stood, not a foot of Russian lumber is being used in its construction. Secondly, the quantity of Russian lumber coming into the United States is very small. Third, until Canada or Mexico take off their tariff this provision would apply equally against them and against Russia. If Canada or Mexico did take off their tariff, then we would have free trade on this article as between the two countries and the United States, but the tariff would still remain as against Russian lumber.

Mr. WALSH of Massachusetts. The present countervailing law is discretionary. The President can exercise his power and authority under the present law, while the amendment of the Senator from New York would make it mandatory. Furthermore, the present law applies only to flooring; the compensatory duty relates only to flooring.

Mr. SWANSON. Mr. President, as I understand the proposition it is that the Senator from Washington [Mr. JONES] proposes to impose against every country in the world a duty of $1.50 per thousand feet on all lumber imported into this country of the character named. The Senator from New York [Mr. COPELAND] seeks to limit that so it would exclude from the operation of the tariff imposed by the amendment of the Senator from New York such lumber as is mentioned specifically as imported from contiguous countries. His amendment says, "in the rough or not further manufactured."

Mr. JONES. It is limited in that respect.

Mr. SWANSON. Then the amendment of the Senator from Massachusetts [Mr. WALSH] to strike out all of that part of the amendment of the Senator from New York which says "in the rough or not further manufactured," and so forth, so if the amendment of the Senator from Massachusetts prevails all lumber—that is, all boards, planks, spars, of fir, spruce, pine, and hemlock—if imported into this country either from Mexico or from Canada, will come in free of duty, provided they allow similar lumber to enter their country from the United States free of duty. That is the effect of the amendment, is it not?

Mr. WALSH of Massachusetts. That is exactly the effect.

Mr. WALSH of Montana. Mr. President, I should like to ask the Senator from Idaho [Mr. BORAH], chairman of the Committee on Foreign Relations, whether in his judgment we may consistently with our relations with other countries thus give a preference to contiguous territory.

Mr. BORAH. We have no commercial treaty with Canada.

Mr. WALSH of Massachusetts. Of course, it would not affect Canada because we give the preference to Canada and, of course, she would not be in a situation to find fault and would not find fault. But we give a preference to Canada and Mexico as against countries with which possibly we have favored-nation clauses in our treaties.

Mr. BORAH. Of course, we have not any with Russia and I do not know of any other country from which we would be importing lumber.

Mr. WALSH of Montana. Not this grade of lumber.

Mr. BORAH. No. While theoretically I think it would be objectionable, yet as a practical proposition I doubt if it has any effect.

Mr. SWANSON. It seems to me the effect of this amendment, on the suggestion of the Senator from Montana, would be as follows: Of course, we have no treaty with Canada or Mexico that contains the most-favored-nation clause. Anything we do in a tariff bill here can not be availed of by either Mexico or Canada or Russia, because we have no commercial treaties with them of any kind or character. But it would seem to me if we enact a law extending to Canada, a contiguous territory, certain conditions permitting her lumber to come in here free, any nation with which we have a most-favored-nation clause in our treaty would be entitled to avail itself of that law.

Mr. BORAH. I think that is true, but as a practical proposition I know of no nation from which we are importing any lumber.

Mr. SWANSON. I myself do not know of any, but what I mean is if a Central American country with which we have a commercial treaty had in that treaty a most-favored-nation clause in connection with importations they could avail themselves of this provision in the tariff act. It is not limited to treaties, but includes acts of Congress as well. For instance, Turkey has a law by which they fix four or five different grades of tariff on goods coming in there, according to the exporting nation. France has a similar law. If we enact this law as

affecting contiguous territory, every nation with a treaty containing the most-favored-nation clause would be entitled to invoke it, and insist upon similar treatment for their products of lumber. The most-favored-nation treatment is not limited to treaties, but it is extended far enough to include our acts of legislation, and provides that they shall be available to other nations to the same extent that we extend that favor to other nations.

The VICE PRESIDENT. The question is upon the amendment proposed by the Senator from Massachusetts [Mr. WALSH] to the amendment of the Senator from Washington [Mr. JONES], as modified.

Mr. JONES. Mr. President, I express the hope that the amendment to the amendment will be defeated.

Mr. LA FOLLETTE. Mr. President, I desire to make a brief explanation of my vote on the amendment offered by the Senator from Massachusetts [Mr. WALSH]. I am opposed in principle to countervailing duties, but if they are to be applied it seems to me they should be applied upon all kinds and classes of commodities affected. I shall therefore vote for the amendment offered by the Senator from Massachusetts to the amendment.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. OVERMAN (when his name was called). I have a general pair with the senior Senator from Illinois [Mr. DENEEN]. Not knowing how he would vote, I withhold my vote.

Mr. LA FOLLETTE (when Mr. SHIPSTEAD's name was called). I desire to announce the unavoidable absence of the senior Senator from Minnesota [Mr. SHIPSTEAD]. He is paired with the junior Senator from Oklahoma [Mr. THOMAS].

Mr. SULLIVAN (when his name was called). I have a general pair with the junior Senator from Tennessee [Mr. BROCK]. If at liberty to vote, I would vote "nay."

Mr. THOMAS of Idaho (when his name was called). I have a pair with the junior Senator from Montana [Mr. WHEELER] and therefore withhold my vote.

The roll call was concluded.

Mr. WATSON. I transfer my pair with the senior Senator from South Carolina [Mr. SMITH] to the senior Senator from Massachusetts [Mr. GILLETT] and vote "nay."

Mr. GLASS (after having voted in the affirmative). Has the senior Senator from Connecticut [Mr. BINGHAM] voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. GLASS. I am paired with that Senator, and therefore withdraw my vote.

Mr. TOWNSEND. On this vote I am paired with the senior Senator from Tennessee [Mr. MCKELLAR]. If at liberty to vote, I would vote "nay."

Mr. FESS. I desire to announce the following general pairs:

The Senator from Pennsylvania [Mr. REED] with the Senator from Arkansas [Mr. ROBINSON];

The Senator from Maine [Mr. GOULD] with the Senator from Utah [Mr. KING]; and

The Senator from Connecticut [Mr. WALCOTT] with the Senator from North Carolina [Mr. SIMMONS].

The result was announced—yeas 32, nays, 38, as follows:

YEAS—32

Barkley	Connally	Hayden	Pittman
Black	Copeland	Howell	Robinson, Ind.
Blaine	Couzens	La Follette	Schall
Borah	Cutting	McCulloch	Swanson
Bratton	Frazier	McMaster	Tydings
Brookhart	George	Norbeck	Wagner
Capper	Harris	Norris	Walsh, Mass.
Caraway	Harrison	Nye	Walsh, Mont.

NAYS—38

Ashurst	Grundy	McNary	Smoot
Baird	Hale	Moses	Steck
Broussard	Hastings	Oddie	Steiwer
Dale	Hatfield	Patterson	Stephens
Dill	Hebert	Phipps	Trammell
Fess	Johnson	Pine	Vandenberg
Fletcher	Jones	Ransdell	Waterman
Goff	Kean	Robsion, Ky.	Watson
Goldsborough	Kendrick	Sheppard	
Greene	Keyes	Shortridge	

NOT VOTING—26

Allen	Glenn	Overman	Thomas, Idaho
Bingham	Gould	Reed	Thomas, Okla.
Blease	Hawes	Robinson, Ark.	Townsend
Brock	Heflin	Shipstead	Walcott
Deneen	King	Simmons	Wheeler
Gillett	McKellar	Smith	
Glass	Metcalf	Sullivan	

So the amendment of Mr. WALSH of Massachusetts to Mr. JONES's amendment as modified was rejected.

The VICE PRESIDENT. The question recurs on agreeing to the amendment offered by the Senator from Washington [Mr. JONES] as modified, on which the yeas and nays have been ordered. The Secretary will call the roll.

The legislative clerk proceeded to call the roll.

Mr. OVERMAN (when his name was called). I again announce my pair with the senior Senator from Illinois [Mr. DENEEN] and therefore withhold my vote.

Mr. SULLIVAN (when his name was called). I have a pair with the junior Senator from Tennessee [Mr. BROCK]. Being unable to secure a transfer of that pair, I withhold my vote. If permitted to vote, I should vote "yea."

Mr. THOMAS of Idaho (when his name was called). On this vote I have a pair with the junior Senator from Montana [Mr. WHEELER]. If he were present and free to vote, he would vote "nay," and if I were permitted to vote I should vote "yea."

Mr. TOWNSEND (when his name was called). On this vote I have a pair with the senior Senator from Tennessee [Mr. MCKELLAR]. If he were present, I understand he would vote "nay." If I were permitted to vote, I should vote "yea."

Mr. WATSON (when his name was called). I transfer my general pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Massachusetts [Mr. GILLETT] and vote "yea."

The roll call was concluded.

Mr. LA FOLLETTE. I desire to announce that the senior Senator from Minnesota [Mr. SHIPSTEAD] is paired with the junior Senator from Oklahoma [Mr. THOMAS]. If the senior Senator from Minnesota were present, he would vote "nay."

Mr. FESS. I desire to announce that on this vote the Senator from Connecticut [Mr. WALCOTT] is paired with the Senator from North Carolina [Mr. SIMMONS].

I also wish to announce the following general pairs:

The Senator from Pennsylvania [Mr. REED] with the Senator from Arkansas [Mr. ROBINSON]; and

The Senator from Maine [Mr. GOULD] with the Senator from Utah [Mr. KING].

Mr. SHEPPARD. I wish to announce that the senior Senator from Tennessee [Mr. MCKELLAR] and the junior Senator from Tennessee [Mr. BROCK] are detained by illness.

The result was announced—yeas 39, nays 38, as follows:

YEAS—39

Ashurst	Goldsborough	Kendrick	Robsion, Ky.
Baird	Grundy	Keyes	Sheppard
Bingham	Hale	McNary	Shortridge
Broussard	Hastings	Moses	Steiwer
Copeland	Hatfield	Oddie	Stephens
Dale	Hawes	Patterson	Trammell
Dill	Hebert	Phipps	Vandenberg
Fess	Johnson	Pine	Waterman
Fletcher	Jones	Pittman	Watson
Goff	Kean	Ransdell	

NAYS—38

Allen	Connally	Hayden	Schall
Barkley	Couzens	Howell	Smoot
Black	Cutting	La Follette	Steck
Blaine	Frazier	McCulloch	Swanson
Blease	George	McMaster	Tydings
Borah	Glass	Metcalf	Wagner
Bratton	Glenn	Norbeck	Walsh, Mass.
Brookhart	Greene	Norris	Walsh, Mont.
Capper	Harris	Nye	
Caraway	Harrison	Robinson, Ind.	

NOT VOTING—19

Brock	King	Shipstead	Thomas, Okla.
Deneen	McKellar	Simmons	Townsend
Gillett	Overman	Smith	Walcott
Gould	Reed	Sullivan	Wheeler
Heflin	Robinson, Ark.	Thomas, Idaho	

So the amendment of Mr. JONES as modified was agreed to, and it is as follows:

PAR. —. Timber, hewn, sided, or squared, otherwise than by sawing, and round timber used for spars or in building wharves; sawed lumber and timber not specially provided for; all the foregoing, if of fir, spruce, pine, hemlock, or larch; railroad ties, and telephone, telegraph, trolley, and electric-light poles of any wood; all the foregoing, $1.50 per thousand feet, board measure, and in estimating board measure for the purposes of this paragraph, no deduction shall be made on account of planing, tonguing, and grooving: *Provided*, That there shall be exempted from such duty boards, planks, and deals of fir, spruce, pine, hemlock, or larch in the rough or not further manufactured than planed or dressed on one side when imported from a country contiguous to the continental United States, which country admits free of duty similar lumber imported from the United States.

Mr. WALSH of Montana. Mr. President, at this place in the RECORD I ask that there be incorporated the vote taken as in Committee of the Whole on the amendment proposing a duty on lumber, as found at page 4413 of the RECORD.

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

The vote referred to is as follows:

The VICE PRESIDENT. The clerk will state the pending amendment as modified.

The CHIEF CLERK. On page 118, after line 3, insert:

"PAR. —. Timber hewn, sided or squared, otherwise than by sawing and round timber used for spars or in building wharves, all railroad

ties, telephone and telegraph poles; all the foregoing, if of fir, spruce, pine, hemlock, or larch, $2 per thousand feet, board measure, and in estimating board measure, for the purposes of this paragraph, no deduction shall be made on account of planing, tonguing, or grooving."

Mr. TRAMMELL. Mr. President, as I understood the reading of the amendment the word "pine" was omitted. Is the word "pine" in the amendment?

The VICE PRESIDENT. It is in the amendment. The yeas and nays having been ordered, the clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. COPELAND (when his name was called). On this question I have a pair with the junior Senator from Ohio [Mr. MCCULLOCH]. Not knowing how he would vote, if present, I withhold my vote.

Mr. HATFIELD. My colleague the senior Senator from West Virginia [Mr. GOFF] is detained from the Senate on account of an important business engagement. He has a special pair on this question with the senior Senator from Vermont [Mr. GREENE]. If my colleague were present, he would vote "yea," and I am informed that if the Senator from Vermont were present, he would vote "nay."

Mr. GOULD (when his name was called). I wish to announce that I have a general pair with the junior Senator from Utah [Mr. KING]. I transfer that pair to the junior Senator from Connecticut [Mr. WALCOTT], and vote "yea."

Mr. JOHNSON (when his name was called). Upon this vote I am paired with the Senator from Nebraska [Mr. HOWELL]. Were he present he would vote "nay"; were I permitted to vote, I would vote "yea."

Mr. SCHALL (when Mr. SHIPSTEAD's name was called). My colleague [Mr. SHIPSTEAD] is unavoidably absent. Were he present he would vote "nay."

Mr. STECK (when his name was called). On this vote I have a pair with the senior Senator from New Hampshire [Mr. MOSES]. If he were present, I understand he would vote "yea," and if I were permitted to vote, I should vote "nay."

Mr. THOMAS of Idaho (when his name was called). I have a pair with the junior Senator from Montana [Mr. WHEELER]. If he were present, he would vote "nay," and if I were permitted to vote, I should vote "yea."

The roll call was concluded.

Mr. BLEASE. I have a pair with the Senator from New Jersey [Mr. KEAN]. If he were present, I understand he would vote "yea," and if I were permitted to vote, I should vote "nay."

Mr. DENEEN. On this vote I have a pair with the junior Senator from North Carolina [Mr. OVERMAN]. I am informed that if he were present he would vote "nay." I therefore feel free to vote, and I vote "nay."

Mr. FESS. Mr. President, I wish to announce the following general pairs:

The Senator from Massachusetts [Mr. GILLETT] with the Senator from North Carolina [Mr. SIMMONS]; and

The Senator from Connecticut [Mr. BINGHAM] with the Senator from Virginia [Mr. GLASS].

Mr. SHEPPARD. The junior Senator from Utah [Mr. KING] is unavoidably detained on account of illness. The Senator from Arkansas [Mr. ROBINSON] and the Senator from Pennsylvania [Mr. REED] have a general pair, and are absent on account of attendance at the Naval Conference in London. The Senator from Wyoming [Mr. KENDRICK] is necessarily absent in his State. He is paired with the Senator from Minnesota [Mr. SHIPSTEAD]. If present the Senator from Wyoming would vote "yea."

The result was announced—yeas 34, nays 39, as follows:

Yeas, 34: Messrs. Ashurst, Baird, Broussard, Dale, Dill, Fess, Fletcher, Goldsborough, Gould, Grundy, Hale, Hastings, Hatfield, Hebert, Jones, Keyes, McNary, Oddie, Patterson, Phipps, Pine, Pittman, Ransdell, Robsion of Kentucky, Shortridge, Steiwer, Stephens, Sullivan, Thomas of Oklahoma, Townsend, Trammell, Vandenberg, Waterman, and Watson.

Nays, 39: Messrs. Allen, Barkley, Black, Blaine, Borah, Bratton, Brock, Brookhart, Capper, Caraway, Connally, Couzens, Cuttings, Deneen, Frazier, George, Glenn, Harris, Harrison, Hawes, Hayden, Heflin, La Follette, McKellar, McMaster, Metcalf, Norbeck, Norris, Nye, Robinson of Indiana, Schall, Sheppard, Smith, Smoot, Swanson, Tydings, Wagner, Walsh of Massachusetts, and Walsh of Montana.

Not voting, 23: Messrs. Bingham, Blease, Copeland, Gillett, Glass, Goff, Greene, Howell, Johnson, Kean, Kendrick, King, McCulloch, Moses, Overman, Reed, Robinson of Arkansas, Shipstead, Simmons, Steck, Thomas of Idaho, Walcott, and Wheeler.

So the amendment of Mr. JONES was rejected.

Mr. JONES. Mr. President, I have an amendment which has been prepared by the experts to meet the situation growing out of the adoption of the amendment just agreed to. I offer it at this time.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. The Senator from Washington offers the following amendment:

On page 274, line 15, strike out all after "1804," down to and including "for," in line 23, and insert:

"Wood: (1) Timber hewn, sided, or squared, otherwise than by sawing, and round timber used for spars or in building wharves; sawed lumber and timber, not further manufactured than planed, and tongued and grooved; all the foregoing not specially provided for."

And on page 275, after line 18, insert a new subparagraph, as follows:

"(2) Logs; timber, round, unmanufactured; pulp woods; firewood, handle bolts, shingle bolts; gun blocks for gunstocks, rough hewn or sawed or planed on one side; and laths; all the foregoing not specially provided for."

And on page 275, line 21, strike out all after "Posts," down through "poles," in line 22.

The VICE PRESIDENT. Is there objection to the consideration of the amendment at this time?

Mr. JONES. Mr. President, I understand it is really not necessary to adopt that amendment; that transferring the items to the dutiable list automatically takes them off the free list. So I withdraw the amendment.

The VICE PRESIDENT. The Senator withdraws his amendment.

Mr. NORRIS. Mr. President, the only other amendment to which the agreement about limitation of debate does not apply is the one which I propose now to offer, unless it will interfere or conflict with some other arrangement. I am not particular about offering it now, but it has been suggested, since it is the only amendment as to which debate is not limited, that it would be very appropriate to offer it at this time.

Mr. HARRISON. Mr. President——

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

Mr. NORRIS. I yield.

Mr. HARRISON. The amendment of the Senator from Nebraska, as I recall, is the last amendment to which an exception was made so that there is no limitation of debate on it.

Mr. NORRIS. That is correct.

Mr. HARRISON. It would seem to me that it would expedite the consideration of the bill if the amendment should be considered at this time.

Mr. NORRIS. The Senator from Utah, I understand, is agreeable to the amendment being presented and considered at this time.

Mr. SMOOT. Yes.

Mr. NORRIS. Therefore I offer the amendment. The Secretary has it on the desk. It has once been read, but perhaps it ought to be read again.

The VICE PRESIDENT. The amendment offered by the Senator from Nebraska will be stated.

The CHIEF CLERK. The Senator from Nebraska offers the following amendment. At the end of the bill add the following:

(1) That in effectuating the purpose of this act to encourage domestic industries, etc., by the imposition of duties upon imports from other countries it is also the purpose to protect domestic purchasers and consumers against the exaction of excessive or artificial prices in respect to any and all the articles, commodities, and things subject to such duties by the maintenance of full conditions of unrestrained competition among domestic producers and distributors. That in order to assure the maintenance of such conditions of competition any citizen of the United States or the people's counsel established in this act shall be entitled to file a complaint in the United States Customs Court alleging that such conditions of competition do not prevail with respect to the production, distribution, or sale of any such dutiable article or commodity and setting forth the facts and circumstances supporting the allegations in such complaint which shall be verified by the oath of the complainant or others.

(2) Upon the filing of such complaint the said court shall have jurisdiction to hear and determine the truth and merit of such complaint and shall immediately cause public notice to be given by publication in the Treasury Decisions of the Department of the Treasury and the Commerce Reports of the Department of Commerce to all persons and corporations or associations concerned in the domestic production, distribution, or sale of such article that it will hold a hearing on the questions of fact and law contained in such complaint upon a day to be named therein when relevant testimony and argument may be offered to determine whether such full conditions of domestic competition prevail and to what extent if any price fixing agreements or practices, or production limiting agreements or practices obtain in the production, distribution, or sale of such article or commodity—and following such testimony and hearing the said court shall report its findings to the President.

(3) That upon the receipt of such findings if it be shown thereby that the full conditions of competition contemplated by this act do not prevail with respect to the dutiable article, commodity, or thing described in such complaint then it shall be the duty of the President

within one month to issue a proclamation suspending the imposition and collection of the duty or duties levied in this act upon such article, commodity, or thing and declaring such duty or duties inoperative until and unless it shall be established before such court, and such court shall make findings to the effect, that the full conditions of competition aforesaid do prevail and shall report such findings to the President who shall then proclaim a cessation of the suspension of such duty or duties.

(4) The said court shall be governed by the preponderance of the evidence in making its findings and shall have power to make reasonable rules and regulations to govern its procedure in such cases: *Provided*, That nothing herein and no proceeding brought hereunder shall be held to weaken or otherwise adversely affect the laws of the United States applicable to conspiracies in restraint of trade or the enforcement thereof.

Mr. NORRIS. Mr. President, the policy of a protective tariff goes on the theory that this side of the tariff wall domestic manufacturers of articles on the protective-tariff list will continue in a competitive way; that competition this side of the tariff wall will be continued if the right kind of a tariff is levied upon imported articles. In other words, all protectionists have always advocated and are believers in competition in the manufacture, the distribution, and the sale of commodities and articles.

This amendment is offered to this bill on that theory for the purpose of giving legal effect to that theory. It is well known that one of the dangers, perhaps the greatest danger, that follows the levying of a high-protective tariff is that it enables the producers and the manufacturers of the article upon which the tariff is levied, this side of the tariff wall, to form combinations and monopolies, and thus exact unfair and unjust prices from the consumer. This amendment is intended to relieve the protective tariff of that objection. That such a condition exists very often, I think, will be admitted by everyone; that the great danger of levying a protective tariff, or at least one of the dangers, is that if put high enough to keep out competition from abroad, it will kill competition here among the domestic manufacturers.

It seems to me, therefore, that every believer in the protective-tariff policy ought to be just as anxious to maintain competition this side of the tariff wall as he is to prevent competition from abroad. In other words, under a high-protective tariff monopolies sometimes grow up and prosper to the detriment of the consumers in the United States.

I take it that no one will dispute the facts that I have briefly narrated.

We must remember also that no manufacturer, no producer, is entitled to a protective tariff as a matter of right. It is a legislative favor; and when the object of levying a protective tariff is circumvented by the beneficiaries of the protective tariff and monopolies are formed and unjust prices demanded it is not only the right but the duty of the Government that gives those favors under such circumstances to take them away.

That is all this amendment does. It applies to no one unless he violates the law that is now on the statute books of our country. It has no application to anyone or to any set of men who are not violating the law.

It might be said, "If they are violating the law, they can be punished." In theory that is true. As a matter of practice, as everybody knows, through long delay, through the employment of technicalities in the enforcement of the laws they are often in effect for practical purposes nullified.

This is a remedy that takes away from the beneficiary of a tariff the preference right that the Government has given him; and it is never taken away until that beneficiary has formed a monopoly, organized a trust, and is, in fact, violating the laws of his country. Until such a condition exists and until after a trial before a court such a condition has been adjudicated to be in existence this amendment has no application whatever.

If a manufacturer or a set of manufacturers organize behind the tariff wall and are able to organize by virtue of a protective tariff, if they do sin and organize a monopoly and the court adjudge that such a condition exists, the punishment is extremely light. The sentence gives to the monopoly itself the key to its own prison cell. All it asks is to stop doing the unlawful thing; and in such a case the law, as provided for in this amendment, has no further application. It deals gently with the wrongdoer and says to the wrongdoer, in effect, "The law provided for in this amendment shall have no application to you or to your business unless you become a violator of law by virtue of the protective tariff that has been enacted for your benefit. Then, if you do sin, if you do go wrong, the only punishment that this law puts upon you is that you must stop your wrongdoing; and just as soon as you do that the law becomes null and void."

Mr. GLENN. Mr. President——

The PRESIDING OFFICER (Mr. HASTINGS in the chair). Does the Senator from Nebraska yield to the Senator from Illinois?

Mr. NORRIS. I do.

Mr. GLENN. I rise for information. I read this amendment some time ago. I think it is exactly in the same form that it was then, is it not?

Mr. NORRIS. I will say to the Senator that the only change has nothing to do with the effective part of the amendment. The only change is in the name of the court. In the amendment as originally offered, and as printed, the court is not properly named. I have changed that, and that is the only change in the amendment.

Mr. GLENN. It seems to me that if a large group of manufacturers in this country were engaged in a certain line of industry, and, say, 60 per cent of them should form an unlawful combination to restrain full and free competition, then, under these provisions, upon that being ascertained and found by the court, the duty would become ineffective and not only the wrongdoers, the law violators, would be punished thereby, but likewise would suffer the 40 per cent of the manufacturers who were entirely innocent.

Mr. NORRIS. Mr. President, I think the Senator has pointed out what, from one viewpoint, might be considered as a valid objection to this amendment. However, I want to call his attention to the fact that this 40 per cent have it in their power under existing law to go before the Federal Trade Commission to prevent the 60 per cent from engaging in unfair competition. They likewise have the antitrust laws, under which they could commence an action against the 60 per cent, and they could be punished under those laws.

Mr. GLENN. While that may be true, I do not understand that it would be their duty to institute those proceedings. The duty would be the duty of the prosecuting attorneys or law-enforcing agencies of the Government. It does not seem fair to me that a man wholly innocent should be drastically punished for a thing for which he is not at all responsible.

Mr. NORRIS. Mr. President, let us take that view of the situation. I am satisfied that if the Senator will think it over he will have to reach the conclusion that there is no logic in the suggestion he has now made.

He says 40 per cent may be wholly innocent, these people who are not part of the combination or the monopoly. They are getting the benefit of a favoring law, passed by Congress. They are getting a benefit which does not belong to them as a matter of right, which would not come to them unless Congress passed a protective tariff law. They are favored, therefore, over other citizens, and when they see a majority of the men engaged in their own line of business engaged in an illegal conspiracy—engaged in a violation of the law—it will seem to them, enjoying the protective policy which comes to them, not becoming to remain silent. As citizens, even if they were not enjoying the privilege, they ought to complain when they know that the law is being violated.

The ordinary citizen might not find that out, but the men engaged in the same business will find it out, and will know at once that their competitors have formed a monopoly, are engaged in violation of the law, and, for their own protection, it will become their duty to make complaint.

It would not be a burden they would have to carry all by themselves. There are two avenues open. If they complained before the Federal Trade Commission, the Federal Trade Commission, when the complaint was properly lodged before them, would proceed with the investigation. They would proceed to make the investigation at the expense of the Government of the United States.

If the other course were taken and the complaining parties wanted to prosecute the violators of the law because they had organized a trust or a monopoly in violation of our antitrust laws, then they could complain to the President of the United States, whose duty it would be to prosecute, and again the Government would bear the burden.

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

Mr. NORRIS. I yield again.

Mr. GLENN. Would it not be just as easy for this man, whoever he may be, either an individual or the people's counsel, instead of filing a complaint in the Customs Court alleging these illegal practices, to file the complaint to which the Senator has just referred, instead of penalizing somebody else because he does not file it. Why not have him file it instead of making it the duty of some innocent person to file it? Let him file it where it will do some good.

Mr. NORRIS. Let us take that view of the situation. I have mapped out this course to be taken because it seems the most effective. The people's counsel provided for in an amend-

ment to the pending tariff bill might do what the Senator says. He could do that in addition to taking this other course. But when he got through the Supreme Court of the United States somebody else would be occupying the office, because, perhaps, he would be dead of old age, and the people in the meantime would be suffering all the time, bearing the burden of this monopoly. This remedy would take effect within a very short time. There would be one trial, and then would come the action of the President. There would be a judicial trial, in which both sides could be heard, in which no penalty, so far as the judgment of that court is concerned, could be imposed except to report the facts to the President, whose duty it would be to take away from them the very protection which enables them to do the wrong they are charged with doing.

If that duty comes upon the man or an institution innocent of anything, as it probably would in practical application, the burden put upon them is practically nothing compared with the burden which the people of the United States must bear, and there is no sort of remedy by which they can get relief from the oppression of monopoly, which is often built up behind a tariff wall.

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

Mr. NORRIS. I yield.

Mr. TYDINGS. I have been reading the amendment of the Senator, and I find I am in sympathy with his purpose. I would like to ask the Senator whether the amendment is intended to apply only when there is a complete monopoly. If I may illustrate what I have in mind, it occurs to me that a large number of manufacturers might combine to do what the Senator seeks to cure here, but that there might be 1 or 2 or 3 who were not in the combination who would be penalized for the acts of the majority of the concerns which do combine. I was wondering how that would work out.

Mr. NORRIS. As I understand the Senator's question, it is practically the same as the one propounded by the Senator from Illinois.

Mr. TYDINGS. Then I will not ask the Senator to go into it again. I was trying to study the amendment.

Mr. NORRIS. Let me say to the Senator, and to the Senate, that, as far as I know, Congress has never attempted to take a step such as is provided in this amendment. It may have been attempted before, it may in some way have been put into the law, but I am not familiar with it. So far as I know, this is entirely new in a tariff bill. I am not claiming perfection in the language, or in anything I have incorporated into this amendment. I thought a good while about changing the court. Arguments could be made that we should give the jurisdiction to some other court, and so on. At the same time I wanted always to keep before me the one object, to get a speedy remedy.

We all know what delays in our courts mean, where there are cases like Jarndyce against Jarndyce. Men are born into and die out of, on account of old age, lawsuits which continually pend in our courts. In the meantime the people are suffering from oppression brought about because Congress in its wisdom, and with the very best of intentions, has given to some people a favor that is not extended to consumers, who have to pay for the privilege others enjoy.

I think we ought to guard with jealous care the rights of the people. We ought to, if we can, provide a speedy remedy. Then think what the remedy is. Think how easy it is for a wrongdoer to save himself financially and in every other respect. It is like imprisoning a man and, when he goes into his cell, giving him the key to the cell and saying, "Come out whenever you want to." That is substantially what we say to these wrongdoers: "Whenever you are willing to suspend your operations of monopoly, then you can come out."

It may be that the language ought to be changed somewhat. It may be that Senators will suggest changes which will improve it. I have no pride in the language I have used.

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

Mr. NORRIS. I yield.

Mr. BRATTON. In view of the Senator's observation that he is not wedded to the language employed in the amendment and inviting suggestions, I want to submit one observation for his consideration. In paragraph 2 of the amendment the Senator has adopted language expressly conferring jurisdiction upon the court to hear and determine the truth and merit of any complaint theretofore filed in which it is charged that full conditions of competition do not prevail. About that I am certain. But paragraph 3 reads as follows:

> (3) That upon the receipt of such findings if it be shown thereby that the full conditions of competition contemplated by this act do not prevail with respect to the dutiable article, commodity, or thing described in such complaint, then it shall be the duty of the President within one month to issue a proclamation suspending the imposition and collection of the duty or duties levied in this act upon such article, commodity, or thing, and declaring such duty or duties inoperative until and unless it shall be established before such court, and such court shall make findings to the effect that the full conditions of competition aforesaid do prevail and shall report such findings to the President who shall then proclaim a cessation of the suspension of such duty or duties.

I am inclined to think that that language, particularly the words—

> Declaring such duty or duties inoperative until and unless it shall be established before such court, and such court shall make findings to the effect that the full conditions of competition aforesaid do prevail, and shall report such findings to the President—

refers to the language to be included in the President's proclamation. I am doubtful whether the amendment expressly confers jurisdiction upon the court to hear a proceeding or petition by a domestic producer or anyone else urging that full conditions of competition previously determined to have been restrained have been restored. I am doubtful whether this confers that jurisdiction upon the court.

Mr. NORRIS. Of course that is what I am trying to do, and if I have not done it I would welcome any suggestion. To my mind it seems plain. While it is not expressed in so many words, it must follow that they have a right to go into that court, because the court is given authority to make this finding.

Mr. BRATTON. In the first instance.

Mr. NORRIS. In the second instance they are given the authority. I read:

> Until and unless it shall be established before such court, and such court shall make findings to the effect that the full conditions of competition aforesaid do prevail.

Mr. BRATTON. The point I have in mind is that the language quoted by the senator refers to the text of the President's proclamation. What would the Senator think about adding this in line 16, following the period:

> Such court shall have jurisdiction upon the filing of a petition by any domestic producer or other interested person to hear, determine, and make findings that full conditions of competition have been restored and do prevail.

Mr. NORRIS. I have no objection to that. If there is any doubt about my language, I think that clarifies it.

Mr. BRATTON. It expressly confers jurisdiction upon the court to hear and determine the second proceeding; that is, whether full competition has been restored.

Mr. NORRIS. Exactly. I am willing to and do accept the amendment suggested by the Senator from New Mexico, to come right after the period, a new sentence, line 16, page 3, of the proposed amendment.

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

Mr. NORRIS. I was about to yield the floor.

Mr. GLENN. I do not want to annoy the Senator or unduly interrupt him.

Mr. NORRIS. I have no objection to interruptions. I am trying, just as the Senator is, to get the real facts before the Senate.

Mr. GLENN. Mr. President, I was impressed in reading the amendment with the ease with which an extensive and thorough investigation could be launched. Any person, no matter who he might be, or whether or not he might have a real basis on which to make a complaint, under this amendment could file a complaint as provided herein, and at once notices must go out to everyone engaged in the particular industry complained about, and it would become the duty of the court to proceed with what might be a very exhaustive and lengthy and expensive matter. A person in an insane asylum or a person mentally unbalanced anywhere could complain about the United States Steel Trust or the Standard Oil or the Farm Bureau, or any other institution or industry, and at once the investigation and trial must proceed. It seems to me it is very likely, in view of our great population and the number of people in this country who have fancied or genuine grievances, that every industry of every kind in the United States, from the manufacture of automobiles to the production of safety pins, would be under investigation nearly all the time. I am asking really for the views of the Senator from Nebraska upon that feature of his amendment.

Mr. NORRIS. I will be very glad to give the Senator my idea of it.

In the first place, I think the Senator is unduly alarmed over what might happen. Any citizen of the United States to-day can make complaint charging anybody with any crime in the category.

An insane person might do it if he could get out of the insane asylum long enough; perhaps he might arrange so he could do

it without getting out. That is something we have always had with us. I suppose every prosecuting attorney in the United States meets with difficulties along that line that he has to overcome. As a prosecuting officer myself I realized it. As Senators we might come in contact with a tramp or a crazy man or something of the kind. But we have not found any difficulty in handling the situation. The Federal Trade Commission, so far as I know, has found no difficulty along that line, and yet the crazy man about whom the Senator speaks might file a complaint before the Federal Trade Commission and charge every manufacturer in the United States with unfair competition.

Mr. GLENN. But it is their duty to investigate before arranging for a trial. As a prosecuting attorney in Nebraska, if a person came to the Senator with a complaint, he not only had the right but it was his duty under the law of Nebraska to investigate that complaint and see whether or not there was any real basis for it. The Senator as prosecuting attorney did have some discretion. In the provision now before us there is no discretion. As soon as a complaint is made the trial must proceed. It does not appeal to me.

Mr. NORRIS. I do not have the law before me, but the act providing for the Federal Trade Commission gives the right to every citizen of the United States, as I remember it, to make complaint. Practically all criminal laws do that. If a crazy man who hired a crazy lawyer should go before the Federal Trade Commission and make complaint, he might cause some trouble. The commission would not necessarily have to do a foolish thing. I take it that the court, for instance, would require affidavits, would require at least a reasonable thing to be done before they would put the machinery of the court into operation. However, if it is true that there is any danger along that line, I would not want to have such a thing happen, of course.

Mr. GLENN. I am sure the Senator would not.

Mr. NORRIS. If there is any danger, I would like to have the Senator suggest an amendment that would obviate it. I do not want to take away from any citizen of the United States the right to appear in this court, because that, I think, would nullify to a great extent the privilege which I am trying to extend to the consuming public to protect themselves against the monopoly that has grown up this side of the tariff wall. It might be confined to the people's counsel provided for in another part of the bill. It might be provided that only the people's counsel should have the right to make complaint, but I should dislike to have it narrowed down even that much. However, I would rather have it that way than not have it at all.

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

Mr. NORRIS. Certainly.

Mr. WAGNER. In section 1 there is a provision that the complaint must set forth the facts and circumstances to support the allegations, so it is not sufficient simply to make general allegations or state conclusions, but facts must be set forth.

Mr. NORRIS. Yes; it says that he "shall be entitled to file a complaint in the United States Customs Court alleging that such conditions of competition," which have been described before, "do not prevail with respect to the production, distribution, or sale of any such dutiable article or commodity, setting forth the facts and circumstances supporting the allegations in such complaint, which shall be verified by the oath of the complainant or others." Personally I have no fear. I think in practically every corrective law on the statute books of every State, where the ordinary citizen is given the right to invoke the law, provisions similar to this are contained.

Mr. SMOOT. Mr. President, this is similar to the proposal, by means of a penalty tax, to prevent the sale by their owners of stocks within two months of their purchase. Before pointing out the probable consequences of the enactment of such a measure, the question arises as to the right and justice of Congress undertaking to limit the right of the owner of a particular kind of property to dispose of it as and when he sees fit or as his interests may demand. It is no answer to such a question to say that complete freedom of disposition may give rise to the evil of speculation. Purchase and sale of almost any commodity or property in any form involves speculation if the profit or loss element is present. For instance, on occasions there has been widespread speculation in real estate. Yet what would the Congress of the United States say to a proposal to impose a tax of such magnitude on real estate transactions so as to prohibit the owner of agricultural or other land from disposing of his property within a 5-year period?

The right to dispose of what one owns is one of the principal factors which gives value to property. The broader the market for any property and the greater the facility with which it may be disposed of at any time at a fair price, the greater its value. Conversely, the narrower the market, the more limited the opportunity of sale, the less the value. It follows that a severe restriction of the right and possibility of disposing of property necessarily diminishes its value. The enactment of this proposal, therefore, will ipso facto destroy property values running into the billions.

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

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

Mr. SMOOT. I yield.

Mr. BROOKHART. I would like to ask the Senator to what particular measure he is addressing himself?

Mr. SMOOT. I am leading up with this statement to a discussion of the amendment of the Senator from Nebraska. I am comparing the measure to which I have referred with the amendment which the Senator from Nebraska has proposed. This is in another form of legislation than that of which the Senator has just spoken.

Mr. BROOKHART. Does the Senator's discussion refer particularly to the amendment offered by the Senator from Virginia [Mr. GLASS]?

Mr. SMOOT. Yes; what I have already said. I am simply going to lead up to and connect it with the amendment the Senator from Nebraska has offered. Of course, as there are hardly any Senators present at this time to listen, I might as well leave the matter and go immediately to the amendment of the Senator from Nebraska. That is what I will do. There are few Senators here to listen, so it will make no difference.

Mr. BROOKHART. I shall be glad to have the Senator proceed in reference to the matter of speculation which he started to discuss.

Mr. SMOOT. I was going to discuss the whole question of speculation, but I will come now immediately to the amendment of the Senator from Nebraska.

Mr. BROOKHART. I think under the circumstances it would be well to have a quorum, would it not?

Mr. SMOOT. Oh, no; I do not think so.

Mr. BROOKHART. I think Senators would be interested in the statement of the Senator from Utah.

Mr. SMOOT. I do not care to have a quorum called. I was going to take up the question of speculation and show just what speculation has to do with the values of property, stocks, and otherwise. Then I was going to call particular attention to the amendment of the Senator from Nebraska and the fact that it is along that same line. I shall now forego any further discussion of that subject, however, beyond the few remarks I have already made, and come directly to the amendment of the Senator from Nebraska.

The amendment proposed by the Senator from Nebraska [Mr. NORRIS] attempts to provide that the duties levied by this bill shall be suspended in any case in which it is determined by the Customs Court that there is no domestic competition. In the first place, Mr. President, this is the first intimation in all the history of tariff making with which I am familiar that a tariff is supposed to regulate domestic competition. Quite to the contrary, I had always supposed that a protective tariff was based upon the necessity of placing the domestic producers upon a proper and equal plane with the foreign producer, thus equalizing costs of production and conditions of competition for the benefit of American labor and American producers. With the protection afforded by the tariff, the American standard of living can be maintained and the American product given an equal chance in the American market. But the price of the American product in the American market is affected and governed by the laws of supply and demand which in turn are very materially affected by competition, not only the competition of other American articles, but also the competition of foreign-made goods.

I have always supposed that competition in the American market was regulated, to the extent that Government regulation was deemed necessary or advisable, by our antitrust laws and our Federal Trade Commission act. Except for necessary tariff protection, I know of no proper stimulus to American competition other than the assurance that unfair methods of competition will be prohibited.

Assuming, however, solely for the sake of argument, that the Senator from Nebraska has found some relation between competition between American producers and the tariff laws, let us examine the effect of the remedy which he proposes. The Senator from Nebraska would eliminate all tariff protection in any case in which there was no domestic competition. What would be the effect of the application of this policy? The elimination of the tariff protection would obviously do no more than turn the American market over to the foreign producer and to the foreign laborer. Obviously, it would not and could

not create domestic competition. The American article would be displaced by the foreign article, which is substantially similar to it or which serves as a satisfactory substitute for it. So that we will have a result quite contrary to the one urged by the Senator from Nebraska. Not only would competition among American producers be discouraged but competition between an American producer and a foreigner would be completely eliminated—and eliminated by the elimination of the American.

What protection to the American consumer does the Senator from Nebraska find in turning the American market over to a foreign monopoly? Prior experiences with foreign monopolies in our markets are sufficient for me at least not to desire by legislative enactment to give further encouragement to them.

Furthermore, one of the most obvious defects in the provision is that it disregards entirely the tariff rate imposed for revenue purposes. For example, under the Senator's amendment the tariff would be removed entirely, as I understand it, from diamonds, for certainly there is no competition among American producers of uncut diamonds.

Mr. NORRIS. Mr. President, I do not think the Senator can be serious in that objection?

Mr. SMOOT. Yes; I am serious.

Mr. NORRIS. Certainly the Senator can not get out of this proposal of mine a claim that competition in this country has been restrained by virtue of an agreement or any other thing that makes for a monopoly in the case of commodities which are not produced here. The amendment would not apply to such a condition as that.

Mr. SMOOT. It is American competition to which the Senator refers in his amendment. The amendment does not refer to American articles but to American competition. There are no diamonds produced in the United States; and those which are sold here are brought in by the American purchaser of those articles locally or by the importer who may sell them here.

Mr. NORRIS. Suppose, as to diamonds, the importers of those precious stones organize and prevent competition, would the Senator wish to burden those who might desire to buy diamonds with the condition which would exist under such a monopoly or combination?

Mr. SMOOT. No; the Senator would not desire to do that; but that is a condition to which, I think, the Senator's amendment does not apply. What I have said also applies to myriad other items.

Further discussion of the amendment seems to me unnecessary. It is founded upon an entirely erroneous conception of our proper tariff policy. In my opinion, it is incapable of reasonable administration, and, finally, the American consumer will be afforded no protection under the Senator's amendment.

Mr. President, I have stated the facts as I see them. I can not think that any other results would flow from the amendment if it should become a law than those I have indicated. Therefore I hope that the Senate will reject the amendment.

Mr. NORRIS. Mr. President, let us consider the objection to the adoption of the amendment which the Senator illustrates by his reference to diamonds. That objection may be eliminated by the insertion of one simple amendment. The Senator has referred to an article not manufactured or produced in this country—diamonds. The amendment provides that when the question as to conditions of competition comes before the court, there shall be a hearing, and so forth—

> When relevant testimony and argument may be offered to determine whether such full conditions of domestic competition prevail and to what extent, if any, price-fixing agreements or practices, or production-limiting agreements or practices obtain in the production, distribution—

Suppose we should strike out the word "distribution." I do not think there is anything in the Senator's argument, but if that one word were eliminated, its elimination would entirely meet the Senator's objection.

I wish Senators to approach this subject from a constructive point of view. It is common knowledge to the people of the United States—and that is the reason we have been fighting over tariff rates for months and months—that from the protective tariff policy come evils that we ought to meet. Everybody concedes that if we put a tariff on an article which is above the difference in the cost of production—and oftentimes it is away above it—we have made it too high; we have fixed it beyond where the honest protectionist is willing to go. That there are many such instances, I think, will be conceded. Sometimes they are accidental and the rates are fixed with the best of intentions, but experience proves that they are too high. In the case of such a high tariff on an article which is manufactured by only a few people, the producers can combine; they can make price-fixing arrangements. It is futile to say that such things do not occur. We passed the law providing for the Federal Trade Commission on the very theory that they do occur, and we desired to combat the evil thus occasioned. We passed our antitrust laws mainly for the same reason.

Such a combination makes price-fixing agreements, and it is enabled to make them by reason of the tariff. Do we desire them to continue? Shall we say, "Go on; we have passed a tariff law; we have fixed the rate so high that you can form and have formed a monopoly; you have made price-fixing agreements; go ahead; we can not remedy the situation; we will let you go"?

Suppose, in the case of a commodity which is not manufactured here but upon which a tariff is levied, those who deal in it—the importers or others who are engaged in its distribution—combine and fix a price on it, they are enabled to do it by virtue of the tariff that is put upon the article and because of which foreign competition can not exist.

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

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Rhode Island?

Mr. NORRIS. Yes.

Mr. HEBERT. I can follow the Senator in his argument, but I am wondering what occurs in the instance to which the Senator has just referred—in the case of an article which is not produced here but which is imported, after paying a duty, I assume. How are we going to penalize those who may be guilty of fixing prices by taking the duty off?

Mr. NORRIS. By removing the duty foreign competition is made possible. Suppose the Senator and I are engaged in the importation of a certain article and, with others who are engaged in the same line of business, we form a combination and make price-fixing agreements. No one wants to see that done; for we thereby destroy competition among ourselves, and the people of the United States pay the bill for our unjust and unholy agreement. Now, suppose the tariff be removed; then, if we have any competitors, they can bring in the article, or anyone else can bring in the article free of duty; that would break up our combination; but as soon as it is broken up, as soon as we agree to obey the law, all we have to do is to satisfy the court that we are again good, and the tariff automatically comes back.

Mr. HEBERT. But, Mr. President, if the Senator will permit another interruption——

Mr. NORRIS. Yes.

Mr. HEBERT. Will not such an arrangement permit the importation of those things that come in competition with goods manufactured in America? The penalty imposed by the Senator's amendment would be in the nature of a retaliation against the American manufacturer, because, in my view, it would permit more imports to come into this country to compete with the products of American factories.

Mr. NORRIS. Yes; it would tear down the tariff wall, I admit that; there is no doubt about that; and the object in doing that is to bring about competition for the benefit of the American people.

The amendment is aimed at the unholy agreements made by those who are enjoying the benefits of the tariff law. To those who make such unholy agreements I want to say, "If you do not rescind that unholy agreement we will take the tariff off the commodity you produce or distribute; we will bring in foreign competition."

Every one who believes in the protective tariff agrees that we can make tariff rates too high. It is agreed also that when a price is fixed up to a proper tariff wall foreign competition will come in. The protectionist wants it to be that way. I do not know of a single protectionist here or elsewhere but what believes in that theory. It is the fundamental principle of it all. He admits also that if a price is made too high this side of the tariff wall there will come a time when foreign competition will come in and break down the combination. That is behind all our tariffs. The danger is that sometimes we build the wall so high that on this side of it monopoly is organized, trade agreements are made, trusts are formed, and the burden is placed upon the American people, who have enacted the law, giving to those operating in combinations a protective tariff. In other words, those who have formed trusts and monopolies take an undue and dishonest advantage of the people who enable them to make their money, and are exacting unjust and exorbitant profits from the consumers of the United States.

Mr. GLENN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Illinois?

Mr. NORRIS. I yield.

Mr. GLENN. I should like to have the Senator's observation upon the likelihood of an amendment of this kind keeping all business, all industry, in a state of uncertainty all the time, so

that they would not know from one day to another whether or not there would be a tariff; there might be a tariff to-day and to-morrow no tariff. Would not that be the situation?

Mr. NORRIS. I do not think so, Mr. President. A number of men are engaged in the manufacture of clothespins let us say; there is a tariff on clothespins and the manufacturers form a combination. The Senator is afraid of an uncertainty; but, nevertheless, we go ahead and form an unholy combination and raise the price; we make price-fixing agreements. Should the Congress be especially careful of those who are violating the law, who are burdening their fellow citizens, who are taking an unjust advantage of a protective tariff?

Mr. GLENN. If the Senator will yield to me a moment further, if I were a clothespin manufacturer and were guilty, it would be all right to punish me; but what about the other numerous clothespin manufacturers who may be wholly innocent? What about the wholesaler and the retailer who have bought a lot of clothespins, based upon American prices, and who may be and are entirely innocent of any illegal combination? Would it be right, because the Senator from Nebraska manufactures clothespins and he with others is guilty of a combination to keep up the price of clothespins, for me, who have bought a lot of clothespins for my little grocery store or for my jobbing house, to have the price of clothespins cut in two and my stock inventory value reduced when I am wholly innocent?

Mr. NORRIS. No, Mr. President; if the Senator were running a little corner grocery store and overstocked with clothespins to such a degree that they would last him for 8 or 10 years that might apply. Perhaps he might be a little more careful if such a law were passed and not supply himself with a stock of clothespins that would last through eternity. But, Mr. President, a combination, a price-fixing agreement, of course, can not be made by one man. The Senator says there are some who are innocent, some who have not gone into the combination. As to them, they can continue their business. There is a price-fixing agreement, say, between the Senator and myself and somebody else to raise the price; but the Senator from Utah and the Senator from Georgia, separately engaged in the making of clothespins, are not in on the deal; they will not go in; they will not join the combination. So we must corral enough of the business so that we have it all, or so, like the oil companies, perhaps we will dominate the market and all the other fellows will have to follow along in our footsteps.

Mr. GLENN. Mr. President, upon that point I do not understand the amendment as the Senator from Nebraska does. The amendment on line 3, page 3, provides "that upon the receipt of such findings, if it be shown thereby that the full conditions of competition contemplated by this act do not prevail," and so forth, then the duty shall be removed. I emphasize the words "full conditions of competition." I take the position that, under this provision, if there are a number of industries manufacturing similar products in this country and 3 or 4 or 5 of them combine and enter into a price-fixing arrangement contrary to the antitrust laws, then the "full conditions of competition" do not prevail. They only prevail when there is no illegal price-fixing combination. I do not think this amendment applies only where any industry is dominated or absolutely controlled by a price-fixing agreement.

That is the way I construe it. I may be in error.

Mr. NORRIS. Let us take, using it only as an illustration, the Standard Oil Co. It is commonly understood that the Standard Oil Co. fixes the price of gasoline. There are independent manufacturers of gasoline who are not in with the Standard Oil Co., not a part of it; but the Standard Oil Co. dominates the industry because of its enormous size and great investment and its enormous resources, spreading out all over the country, enable it to do so.

Suppose that the Senator and I are competitors. We are honestly independent. What do we do? What is it said is being done now? Why, the Standard says, "Gasoline will be such a price, and oil will be such a price," and we automatically follow it. We put that price on our product, just the same as they do.

The same thing used to be true, when I investigated it, of the packing industry. Five great, big packing institutions dominated the market. There were lots of others that were not connected with them, but they followed. They did what the big fellows did. The big fellows fixed the price, and the others came to it.

If the Senator and I were separately engaged in competition with the Standard Oil Co., and we did not follow it, the price would not go up. We would keep the price down. There would be competition. In other words, if we followed, indirectly we might be just as bad as though we were financially interested with the Standard Oil Co., and no competition would exist.

Mr. GLENN. I think the illustration the Senator has made illustrates the point I endeavored to make.

Suppose, on the other hand, that the Standard Oil Co. and the Gulf Refining Co. and the Texas Oil Co. and the Shell Oil Co., dominating the industry of the United States, should enter into a price-fixing arrangement, but that a number of small independent companies are not parties to it. Under this law, if there is a duty on oil, that duty would be removed. That is correct; is it not?

Mr. NORRIS. It depends. If there was a finding that full competition did not exist, then it would.

Mr. GLENN. Yes.

Mr. NORRIS. There might be independents, as I understand is true to-day, where there was not any competition; no direct contract made, but perhaps an implied one, that we would follow the other fellow, and fix the price as he fixes it.

Mr. GLENN. I understand; but under such a state of facts full conditions of competition would not exist, would they?

Mr. NORRIS. Again I say it would depend on whether we were following or not. There might be competition.

Mr. GLENN. Suppose we were not following.

Mr. NORRIS. Then competition would exist.

Mr. GLENN. Does the Senator think full competition would exist then?

Mr. NORRIS. I should say, unless it were confined to a small locality, or something of that kind—if it were general all over the country—it would be full competition. In other words, if there is enough of this competition to make competition everywhere, enough people who are independent and who are not following, then competition would exist, and monopoly could not exist as against it. The price would have to go down; or, if they had an agreement, they could not raise the price.

Mr. GLENN. But I am assuming that it is a small independent outfit, operating, say, in one State—the State of the Senator from Nebraska, for example. Under such a situation, full competition would not exist; and then the duty would go off oil, although the independents may not be a party to this agreement at all.

Mr. NORRIS. All right. Suppose the duty went off oil, and suppose the foreign competition broke up the monopoly that existed and destroyed this price-fixing agreement. What would happen if they let it go that far, if, as a matter of practice, it went that far, and did not stop before it got to that point? What would happen? The big combination would either be put out of business or it would have to break up its monopoly and disregard its agreements; and whenever it did that, the tariff would automatically come back.

Mr. GLENN. But what would happen in the meantime to the small, innocent independent who was not guilty? He would be destroyed, too.

Mr. NORRIS. In my judgment, there would not be any such "meantime." As I intimated a while ago, it would not go that far. These agreements would not be made. When the policeman is standing on the corner, the robber perhaps would not rob the store that otherwise he might burglarize.

Mr. GLENN. The Senator understands that the policeman is already standing on the corner—two or three policemen, in fact.

Mr. NORRIS. No.

Mr. GLENN. The Federal Trade Commission is standing there.

Mr. NORRIS. Exactly.

Mr. GLENN. The antitrust policeman is standing there.

Mr. NORRIS. No; he is not on the corner. He is away over in the next block.

Mr. GLENN. They are both there.

Mr. NORRIS. There are five or six buildings between him and the drug store; and if he finds out that the drug store has been burglarized he will take a roundabout way to get to it, and before he gets there the thief has robbed the store and taken it all away; and before he gets through with the courts, where he has to go, everybody who started in with the litigation is dead of old age.

Mr. GLENN. I do not know how much experience the Senator from Nebraska has had with policemen; but my experience has been that they are all about alike. I think this policeman would be just about like the other policemen.

Mr. NORRIS. Of course, I do not know what experience the Senator has had with policemen. He comes from Chicago, where policemen are not very effective.

Mr. GLENN. I think the Senator will agree that they are all alike in Chicago.

Mr. NORRIS. I think they are all alike—probably none of them any good—from what I read about the crimes that are committed there almost daily.

But, Mr. President, why are Senators so sensitive about a monopoly? Why so sensitive about protecting the man and the combination and the corporation who violate the laws of the United States? All that this amendment does is to give a remedy in addition to other remedies that everybody knows are not now effective.

Mr. GOFF. Mr. President, may I ask the Senator a question?

Mr. NORRIS. Yes.

Mr. GOFF. Does not the full purport of this amendment tend to punish not only those who are engaged in the illegal combination to raise prices but also the immediate purchaser, who is a consumer in and of himself?

Mr. NORRIS. It is going to be a great help to the consumer. It is in the consumer's interest that I have offered the amendment.

Mr. GOFF. I know; but does not the amendment penalize the consumer who has purchased the direct product of the monopolist?

Mr. NORRIS. No; it does not penalize the consumer.

Mr. GOFF. Under the language of this amendment, if there has been established an illegal combination which results in excessive or artificial prices, the tariff shall be removed. If this investigation results in removing the tariff, then there has been destroyed, so to speak, the price which the immediate consumer of the monopolistic association has a right to receive for his goods.

Mr. NORRIS. The consumer does not sell the goods. I think the Senator is talking about some one besides the consumer.

Mr. GOFF. No; I am speaking about the people who buy innocently from those who are guilty of the combination.

Mr. NORRIS. Yes. The Senator referred to them as consumers.

Mr. GOFF. Are they not consumers in the sense that they are passing on the sale to an ultimate consumer of the product involved?

Mr. NORRIS. Mr. President, I can conceive how there might be a case of some middleman who had bought something when the monopoly had control and did not sell it until this procedure was finished and the price went down. If that happened, he would lose money on his investment. That happens now, if such a thing happens, and he loses money on his investment; but the Senator forgets, it seems to me, that behind him are a hundred million people, it may be, in some instances, who are consumers, and who are mulcted from day to day and from month to month and from year to year on account of an unholy combination behind the tariff wall; and there is no way to get a remedy except through the long and tedious method of the courts or to come to Congress for a revision of the tariff.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Nebraska yield to the Senator from Georgia?

Mr. NORRIS. I do.

Mr. GEORGE. If I may make a suggestion to the Senator from Nebraska, precisely the difficulty that the Senator from West Virginia anticipates can and frequently does occur in cases of monopoly. When the monopoly has been formed, and the price is in the hands of the monopoly, it may run the price up and down, to the injury of the middleman who has bought from it.

Mr. NORRIS. It not only can but it does.

Mr. GEORGE. It does do it at any time.

Mr. NORRIS. It is common knowledge.

Mr. GOFF. Mr. President, let me say to the Senator from Georgia that under the enforcement of the provisions of the Sherman antitrust law the immediate purchasers from those who have violated the law are not being punished, but only those who by their illegal combination have started a violation of the law to which exception is taken.

Mr. GEORGE. Oh, yes; but what I mean is this: If a man is a distributor of gasoline and a trust or combination is in control of the price he is always in danger of having his present stock in hand reduced in value if the combination wants to reduce the price of gasoline. Henry Ford—that is, the Ford Motor Co.—has been perhaps the outstanding exception in this country of an industry that protected the prices of stocks already passed to its distributors. The Senator knows that; and precisely the thing that he points out as the danger or injustice of the amendment offered by the Senator from Nebraska can and does happen, or at least may happen, at any time wherever it is possible for control of the price to fall into the hands of a combination and is fixed by the combination.

Mr. GOFF. Mr. President, may I say further to the Senator from Georgia that the provisions of the Sherman antitrust law penalize only those who initiate the violation and do not in any sense penalize those who are the victims of that violation, whereas a literal enforcement of this amendment would penalize everyone, the innocent along with the guilty.

Mr. GEORGE. I was not speaking about a dissolution of the combination that followed the investigation set on foot by the Federal Trade Commission or the courts; but let me ask the Senator a question.

Suppose some combination should fix the price upon some important article of merchandise, and the courts of this country—as they ought to do in many cases where no effort is made to do it—should proceed against the combination and say, "This is a trust," should move to dissolve it, and should dissolve it. Would not all those who purchased from that trust and who yet held the stocks purchased from the combination while the trust or combination was in existence at least run the risk of a decline in price upon their merchandise?

I think the answer to all the objections that are now being raised to the Senator's amendment is perhaps this: That if an industry enjoying special protection knows that it may lose its protection by fixing prices through combination that industry is not going to take the risk.

Then it must be borne in mind that this amendment does not contemplate the establishment of a combination for the purpose of inflicting a criminal or a civil penalty, but simply determines that a general combination exists in an industry, and if it is found to exist, then the tariff privilege enjoyed by that industry, temporarily at least, is taken away from it. I think when that is considered, if this amendment should be adopted and should become the law, you would have at least a constantly decreasing number of instances in which industries enjoying this protection would run the risk of losing the privilege.

Mr. GOFF. Just one more question. Will not the Senator agree that the judgment of the court in an action instituted under the Sherman antitrust law would penalize only those who could be brought before the court, such as the defendants specified in this amendment would be, but that after the court has found that the illegal combination or conspiracy exists, then the amendment places in the hands of the Executive the wide power to open the gates of this country and flood this special market with European goods, to destroy a competition which had its origin in monopoly; and is not that the danger in the amendment?

Mr. GEORGE. I do not see that there is any special danger in the amendment. Of course, I can see that if we are going to keep in mind the recipient of special privilege only and confine our thought to him continuously—that is, if he is to remain the special object of consideration by government—there is some force, of course, in the Senator's suggestion, but there can be no fixing of price unless an industry as a whole is willing to enter into the combination, and I may submit to the Senator that there can be no complete price control unless the distributors also are willing to become parties to it, because while 2 or 3 or 4 manufacturers engaged in producing a particular article in this country might be able to fix the price from the manufacturer to the wholesaler or distributor they could not absolutely fix that price to the ultimate consumer unless the distributor, the middleman, was willing to enter into the combination. But even if the punishment, as the Senator is pleased to call it—though it is not punishment, it is simply the withdrawal of a privilege from those who enjoy the privilege, as you wish to call it—even though that kind of punishment could not be confined strictly to offenders, at the same time it would seem that, in considering the general welfare, the Government is justified in withdrawing the special grant.

I can not see, from the moral point of view, any substantial objection to the Senator's amendment. Frankly, there is an objection of a practical nature, more or less serious. That objection springs out of this situation, as I see it. The Customs Court would be called upon to determine the existence of an illegal combination, a price-fixing agreement. It would be called upon to determine whether or not a combination in a certain nation-wide industry, for instance, actually existed. The Customs Court might be met in its effort to procure evidence by industries existing wholly within one State, and confining their business to one State. Such an industry might say, "We are purely intrastate in character. We manufacture in this particular State only, we sell only in this State, we do not do an interstate business, and therefore we are not within the jurisdiction of the court under this act."

I confess that does present a legal problem which is not without difficulty, and the only way I resolve it is this, that the object of the proposed investigation is not the imposing of a penalty, criminal or civil, but it is to ascertain a condition in

industry, and it may be able to ascertain that condition from such evidence as is available, and under the rules applicable to the investigation, made applicable by this amendment.

It might be that in some circumstances it would not be possible to ascertain that condition with such certainty as would enable the customs court to render a finding. I think that well might result, when we consider the circumstances I have indicated, in the industry, or a large part of it, saying, "We are purely intrastate in character in all of our operations, and therefore you can not compel us to produce evidence or appear for examination before the court."

Mr. GOFF. Mr. President, those would be matters going to the jurisdiction of the court to entertain the action.

Mr. GEORGE. That is true; at least, matters going to the power of the court to obtain the evidence which would enable it to determine the question.

Mr. SMOOT. Mr. President, I am suffering with a severe headache this afternoon, and therefore I spoke just a few minutes on the amendment. Since the Senator has addressed the Senate, I feel that I ought to call the Senate's attention to some of the objections I did not mention in my former statement.

The amendment is a gross discrimination against American business institutions in that it ignores entirely foreign organizations which endeavor to limit production or to control prices or distribution and sale of commodities. The amendment disregards the existence of foreign cartels, which have been organized in many different fields and whose control of shipments to and prices in the United States is too well known to need elaboration. The amendment of the senior Senator from Nebraska [Mr. NORRIS], I dare say, would give a decided impetus to price control in the United States of many foreign chemicals and other products. Designed to prevent restrained competition among domestic producers and distributors, the amendment by failure to consider the situation with respect to foreign commodities would serve to encourage combinations by foreign producers and distributors marketing their products in the United States.

The proposed amendment is in conflict with the patent and copyright laws of the United States, which are intended to encourage and to help create monopolies under conditions prescribed by the Congress. The Norris amendment in effect nullifies the patent and copyright laws.

Where a product is produced by two, three, or a limited number of concerns in the United States, the domestic competition is necessarily so narrow as to make it readily possible for any citizen of the United States to invoke the Norris amendment.

Whenever importers desire to embarrass domestic producers they could bring charges and place the industry on the defensive. This would undoubtedly introduce a disturbing and disrupting element into American business.

The whole dutiable list by this amendment would be subjected to a perpetual tariff revision, for at any time charges might be brought that prices were being controlled by domestic producers and notice served that the industry stood in danger of having the duties on its commodities removed. In what an uncertain status would the whole dutiable list thus be placed! Thus in time all commodities on the dutiable list could be brought under review.

Business conditions would be made very uncertain under the proposed bill, in that any citizen of the United States may file a complaint in the United States Customs Court, and the court, by immediately filing public notice by publications in the Treasury Decisions of the Department of the Treasury and the Commerce Reports of the Department of Commerce, would place the industry on trial against the charge of excessive or artificial prices or of restraining competition. This filing of charges would be bound to have a detrimental effect upon an industry. It would open the door to the possibility of a flood of unwarranted complaints and charges. Innumerable times such charges would undoubtedly be found unwarranted, but a great deal of damage would already have been done. Business would thus be kept, under this amendment, in constant jeopardy.

The Congress, if the amendment of the senior Senator from Nebraska [Mr. NORRIS] were adopted, would delegate its tariff-making powers to the United States Customs Court without providing for such standards of measure and such limitations as it has insisted in imposing upon the Tariff Commission under the flexible provisions. The United States Customs Court, without such facilities as are possessed by the Tariff Commission, would be called upon to examine charges filed under the Norris amendment, whenever any citizen of the United States so desires, and to make findings with respect to a situation far more difficult to determine than have been the differences in costs of production or would be the equalization of competitive conditions, and with a discretion that the Congress alone should exercise.

Finally, the amendment is unnecessary in that there is already in existence an organization which is charged with the responsibility of examining into price fixing and into restrained competition and agreements or practices limiting production, sale, or distribution of commodities. The Federal Trade Commission is constantly in receipt of complaints and charges dealing with restraint of trade, has the facilities for examining into such charges, and can under the law bring action to remedy unlawful conditions.

There are other reasons which I could call to the attention of the Senate, but I think these are sufficient, and I hope the Senate will not agree to the amendment.

Mr. KEAN. Mr. President, before the debate closes I want to call attention to this feature of the amendment—that should a company be found guilty of the violation of law mentioned it might result in the throwing out of work of thousands and thousands of men who would be absolutely innocent of any crime.

Mr. GEORGE. Mr. President, some of the arguments made are a little amusing. They come to this, that if a trust should be tried and convicted as it ought to be tried and convicted, and the whole business were put in jail, some people would be thrown out of work while the trust was in jail.

Mr. KEAN. Mr. President——

Mr. GEORGE. That is the argument I have heard; and I may say I am not directing my remarks especially to the Senator from New Jersey, but to others.

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

Mr. GEORGE. I yield.

Mr. KEAN. If a fine is put upon a trust, or if the officers of the trust are put in jail—which may be where they belong—that does not interfere with the working man getting his daily wage, and does not interfere with the corporation going on.

Mr. GEORGE. That is true, Mr. President, if it goes on. But in many, many cases of prosecutions for price-fixing agreements, combinations in restraint of trade, if there were to be a vigorous prosecution of those engaged in such enterprises we would have a cessation of their business, and, of course, their employees would be out of work, and that would be too bad so far as that goes. Anybody to whom they had sold merchandise or goods would at least have to assume the risk of finding their prices depreciated upon the dissolution of that sort of combination or that sort of agreement.

But the point is, Mr. President, it does not seem to me to be any argument against the amendment that harm may come to the innocent. If I commit a crime the real punishment falls upon those who are near and dear to me. It is the unavoidable consequences of human action, and it is no more unfair to say to any industry, "If you are going to violate the law and enter into a price-fixing agreement, not only do you run the risk of having this privilege taken away from you, but you also run the risk of working an injury to those who labor for you and to those who have bought goods from you." It is not merely the fear of punishment to the individual, whether in the civil or in the criminal spheres of life, that restrains them and controls them, but it is the certainty also that the result of their action is going to affect others. That does not seem to me to be any satisfactory answer why the amendment, if it is otherwise unobjectionable, ought not to be accepted.

Mr. TRAMMELL. Mr. President, I have not had an opportunity to read the pending amendment until within the last few moments. I am a little surprised that anyone should champion such an amendment who had so vigorously opposed the policy of the flexible tariff provision under which the President would be vested with authority to increase a tariff rate upon the basis that a certain given American industry was suffering or being threatened with great disaster or destruction by foreign competition. I did not vote for the flexible clause in the form in which it was first stated in the tariff bill now pending. I voted to take from the Tariff Commission and the President the authority to change tariff rates. I did this because I felt that tariff making was a legislative function which should not be delegated to the Executive. To now vote to give the Customs Court and the President the authority to annul tariff duties as is provided in the amendment of the Senator from Nebraska [Mr. NORRIS] we are now considering would be a complete reversal of my position against the flexible provision, which delegated such power to the President to raise tariff rates. I entertain the same objections to the pending amendment that I entertained against the proposed flexible provision, which similarly transferred a legislative prerogative to the Tariff Commission and the President. About the only distinction between the two amendments is that the Customs Court and the President are delegated these extraordinary powers in the pending amendment and in the flexible provision that power was given to the Tariff Commission and the President.

The amendment vests the following authority: Some one desires to make complaint that there is not an unrestrained condition of competition in a certain American industry. When made, that complaint is lodged with the Customs Court. The Customs Court conducts an inquiry. The Customs Court decides that there is not unrestrained competition among domestic producers or distributors of the commodity in question which is protected by a tariff duty. They in turn report it to the President, and the President proceeds, by giving a certain notice, issues a proclamation providing for the annulment and cancellation of the duty upon such commodity or article. In its consequences such drastic power, if put into operation to the point of suspending a given duty, would probably work an annihilation of the industry involved as an American industry and thereby open the way to set up in its stead a foreign industry to prey upon the American people. I do not see how it could mean anything else. That seems to be the purport of the amendment.

As an illustration, judging from the position and the attitude of some of our Senators upon the question of the tariff on sugar, acting under the provisions of the amendment of the Senator from Nebraska, a complaint would be lodged that there was not unrestrained competition among the domestic producers of and dealers in sugar. If the Customs Court held that that was true, then it would be the duty of the President to issue his proclamation setting aside completely and entirely the duty upon sugar. What would be the consequence? The result would be that the farmers and those engaged in the production of sugar in the United States would be wholly and absolutely driven from their farms, their business would be destroyed, and the sugar monopoly of Cuba would be set up here to prey upon the American people and charge whatever they desired for their products. As illustrated in regard to sugar, I could likewise illustrate the situation as it might apply to many other products of the fields or the factories of America.

I do not believe in combinations for price fixing or combinations in restraint of trade. I have always supported the antitrust laws. I have always advocated any step for the purpose of checking price fixing. We have an antitrust law now. Sometimes I do not think it is enforced as it should be enforced. I should like to see it enforced very vigorously. But if we set up another procedure by which we shall deal with industries engaged in business where there is a duty imposed upon products competitive to their product or articles of trade, then we have two procedures through which we may deal with offenses of the character in mind. Those who engage in industries where they do not have any protection may go ahead freely and carry on their operations and be subject only to such restriction and penalties as we might place under the antitrust law. If there is no protection thrown around their business in the way of a tariff, the presumption is that none is required. On the other hand, this amendment would prescribe a different method for the restricting and punishing of those engaged in business where they handle articles or commodities which have a protective duty placed upon them. Even in America under such law we might destroy one industry to the advantage of another American industry.

I think that a law of this kind in its operation and enforcement would work disastrously in a great majority of instances if enforced. When it was enforced it would almost inevitably be enforced to the advantage of foreign competition, and often it would result in the complete turning over to foreign monopoly of a certain trade and of a certain market here in our country.

While I am in thorough sympathy with the purpose of the Senator to penalize a condition against unrestrained competition in trade, I can not believe that the situation justifies the drastic penalty he provides. I would say punish severely the individual guilty of trust or monopoly methods, but do not destroy the opportunity for the industry to live under a legal and honest operation. It would be but right and justice to punish the person or persons offending, but, on the other hand, a tragedy to cancel the duty that prevailed on the articles of trade involved.

I also object to the Customs Court becoming the arbiter to decide upon the question of the wisdom of Congress in placing a certain tariff duty upon a certain commodity or product. I think it would be just as contrary to our system of government, just as repugnant to our ideas of the exercise and the full exercise of the legislative function on the part of Congress to permit the Customs Court to make findings and a decision and then for the President to annul a tariff duty which had been placed by Congress as it would be to allow the President to have unrestricted authority to change tariff duties which had been fixed by the Congress.

I voted against that proposal, and a great many Senators, a majority of them, voted against a policy of that kind some weeks ago. Yet one of my good friends who made very strong speeches in opposition and who opposed then that policy very vigorously comes now and is willing to have the Customs Court pass upon the question of canceling a tariff duty and then have the President suspend completely and entirely a duty which has been imposed by Congress.

I think the offenders should be severely punished in some way for price fixing if it is carried on, or for maintaining a monopoly in violation of our antitrust laws; but I think that the results and the consequences of a procedure of the character set up in the pending provision would be so far-reaching and would reach so many innocent people that there is no justification for inaugurating it in addition to the antitrust law penalties. If, as a penalty or otherwise, the protective duty is canceled on certain commodities or products, you destroy the opportunity for similar American product or commodity to survive in the industrial life of our country. Turn the field over to the foreigner and importer, with all its ills and disaster to an American industry which will be destroyed when the tariff is amended. Of course some may say such drastic action would be to the advantage of the consumer and the purchaser. Primarily, however, it would be to the advantage of the foreign dealers in that particular commodity or article, because it would give to them a free field in the United States to spread and enlarge their trade in the particular commodity. Other Americans than those who had been guilty of the offense could not carry on a similar industry because it could not live against the foreign competition without the duty which had been annulled. The duty which had made it possible for them to build up a successful enterprise would have been withdrawn from them and they or anyone else would be helpless to rebuild the industry in America. Some may say that those who offended should not be permitted to rebuild and reestablish themselves. I do not care anything about the punishment inflicted on those particular individuals.

The punishment under this amendment, however, would reach not only the guilty individual but it would reach to all the labor engaged in the enterprise. Its disastrous effect would reach into every endeavor which was in any wise connected with that particular industry. So I think, in order to reach a possible evil, the remedy in this particular instance would be only adding injury to injury against the public. The evil could and should be punished under the antitrust laws.

Take the farming interests of this country. I will mention the citrus-fruit growers in California. The cooperative organization among the citrus-fruit growers has often been held up to those engaged in a similar enterprise in Florida as a model of cooperation, because, it is said, that 90 or 95 per cent of all the producers of California are affiliated with that organization, and that they systematically control the marketing and the distribution of their crops, and at times control the price for which their products shall be sold.

In some other part of the country somebody may say, "Well, we think that that ought not to be; under the amendment which has been placed in the law providing for questioning any restraint of trade, we will make a complaint." They go before the United States Customs Court, and that court may be convinced that, in fact, such condition does exist. What would be the consequence? The consequence would be that any duty which had been placed upon the commodity involved would be suspended. Illustration after illustration of the evil consequences of such legislation might be cited.

I have heard a good deal about the consumer and the purchaser in this country, as we have been dealing with the different tariff rates. It seems to me that sometimes the question of difference depends on the color of the glasses through which one is looking. I have tried to help the wheat farmers, and I wish to assist them; I have voted for every measure that was claimed to be promotive of their welfare; but as I look through the Southland, at my own State, and many other States in that section of the country, I see they are all consumers and purchasers of the products of wheat; they are not producers of wheat, and they might complain against efforts to help the wheat producer, if they were to take such a view as that suggested by the pending amendment. So, when it comes to a question of the tariff upon dairy products, and I review the statistics of the domestic imports into my State, and I see where the good people of Florida pay out about $30,000,000 a year for dairy products, which come there from Wisconsin and a number of other States, probably I might say "We are not producers of dairy products except to an inconsequential extent; we are consumers; we are only purchasers

of dairy products; so why should I concern myself, why should the good people whom I represent concern themselves about what happens to the dairy farmers of the country?" However, I have not assumed any such attitude as that in the Senate. I have voted to assist them and to give them such duties on their products as different Senators seem to think the industry in their States requires.

Take manufacturing. Some seem to look upon manufacturing with antagonism, and with a certain spirit of hatred apparently, and hold that we should not do anything for manufactures. So far as my part of the country is concerned, we are not a manufacturing section, but I would not hold from the manufacturing industry of the country such reasonable protection as may be needed for it, in order to sustain and successfully carry on its enterprises.

If we begin to break down a unit here and a unit yonder of the industrial life of America, we shall soon carry that policy to the extent where we shall destroy our prosperity; where it will spread out until disaster will overcome the farmer. Although he is not directly engaged in manufacturing, if the farmer shall be injured the disaster which befalls him will reach to the manufacturer. I think our interests are so interwoven and so connected in this country that it well behooves us to try to foster the welfare of labor, of the farm, and of commerce, labor for the prosperity of our various industries and for the preservation of our many resources so that each of them may enjoy prosperity within its respective field.

So I do not care to encourage a policy where somebody who thinks every tariff that is imposed on a product that does not happen to come, it may be, from his State, is improper, will be knocking at the door of the United States Customs Court and making complaint for the purpose of trying to have annulled and rescinded the tariff upon that commodity.

I am against restraint of trade; I am unalterably opposed to combinations for price fixing; but I can not see, Mr. President, that a provision of this character, which, as I think, is fraught with such disastrous results, should be placed in the bill. Why hang a man's entire family because he is a murderer? Why wreck a train because the conductor offends? Why kill an industry because some officers of some company may do wrong? Punish the officers of the concern but do not drive the commodity or product from the channels of legitimate American trade.

For the misdoing the conductor should be punished, but the train left for other service and usefulness.

If the dealers in dairy products form a combine and fix prices, severely punish these dealers, but do not take the duty off of the dairy products and destroy every dairy farmer in America, and thereby turn the dairy industry of America over to the foreign dairymen. I want to go after the price fixer and the trust builder without mercy; he deserves none; but I think it an inexcusable and indefensible policy, a tragedy, to destroy, to injure, and wreck the innocent because of the guilty. In most cases to arbitrarily and autocratically cancel the duty on commodities and products as provided in this amendment would mean to injure and penalize far more innocent men than it would punish of those whose unlawful acts provoked the removing of the tariff duty.

Mr. WALSH of Montana. Mr. President, it seems to me that this amendment ought to be supported by Senators on both sides of the Chamber. When the protective-tariff principle was first proposed in this country its advocates argued, and with cogency, that while the operation of a protective duty would be to increase the price of the commodity upon which it was levied, and thus add to the burdens of the consumer, if the profits were to any extent extraordinary or inordinate it would stimulate others to get into the business and thus competition would arise, which eventually would result in a lowering of the duty. So the argument that loss would ensue to the consumers of the country generally would be overcome, and it would really be to their advantage to pay higher prices for short periods, temporarily, in the expectation, and the reasonable expectation, that by reason of competition eventually all prices would be lowered. I suppose that is still the doctrine of those who extol the policy of a protective tariff.

On the other side, Mr. President, it has been good Democratic doctrine for, lo, at least two generations that the tariff is the mother of the trusts, and the party has repeatedly expressed itself to the effect that the tariff ought not to be levied upon products that are controlled by monopolies, for the reason that the principle to which I have adverted could possibly have no operation. Thus as far back as 1896 the party declared:

> We denounce as disturbing to business the Republican threat to restore the McKinley law, which has twice been condemned by the people in national elections, and which, enacted under the false plea of protection to home industry, proved a prolific breeder of trusts and monopolies, enriched the few at the expense of the many, restricted trade, and deprived the producers of the great American staples of access to their natural markets.

The purpose of this amendment is to prevent the tariff from being, as is here stated, the "breeder of trusts and monopolies."

Then, again, Mr. President, the party declared itself upon the subject in its platform of 1904 as follows:

> Tariff laws should be amended by putting the products of trusts upon the free list, to prevent monopoly under the plea of protection.

I am not advised, Mr. President, as to what attitude the Senator from Florida took in the campaign of 1900, but I have no doubt that he subscribed to that doctrine.

Mr. TRAMMELL. Mr. President——

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

Mr. WALSH of Montana. I yield.

Mr. TRAMMELL. Would the Senator mind reading the tariff plank in the Democratic platform of 1928 on that question?

Mr. WALSH of Montana. I propose to go right down the line.

Mr. TRAMMELL. Will the Senator from Montana also state whether the standard bearer of the Democratic Party during the last campaign advocated any such policy as is indorsed in this amendment? I never heard of his doing so, and I should like to know if he did.

Mr. WALSH of Montana. I propose to go down the line. The Democratic candidate for President of the United States declared where he stood upon the platform adopted at Houston.

Mr. TRAMMELL. Mr. President——

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

Mr. WALSH of Montana. I yield.

Mr. TRAMMELL. The candidate made two or three declarations in regard to certain features of the platform; and did he not denounce certain parts of the platform?

Mr. WALSH of Montana. I shall not be diverted by that kind of a discussion. In 1904 the party declared:

> The Democratic Party has been and will continue to be the consistent opponent of that class of tariff legislation by which certain interests have been permitted, through congressional favor, to draw a heavy tribute from the American people. This monstrous prevention of those equal opportunities which our political institutions were established to secure has caused what may once have been infant industries to become the greatest combinations of capital that the world has ever known. These especial favorites of the Government have, through trust methods, been converted into monopolies, thus bringing to an end domestic competition, which was the only alleged check upon the extravagant profits made possible by the protective system.

In 1908 it declared, among other things:

> We favor immediate revision of the tariff by the reduction of import duties. Articles entering into competition with trust-controlled products should be placed upon the free list.

In 1924 the Democratic platform declared:

> We denounce the Republican tariff laws, which are written in great part in aid of monopolies, and thus prevent that reasonable exchange of commodities which would enable foreign countries to buy our surplus agricultural and manufactured products with resultant benefit to the toilers and producers of America.

And now we come to the declaration in the platform of 1928, as follows:

> The Democratic tariff legislation will be based on the following policies:
>
> (a) The maintenance of legitimate business and a high standard of wages for American labor.
>
> (b) Increasing the purchasing power of wages and income by the reduction of those monopolistic and extortionate tariff rates bestowed in payment of political debts.
>
> (c) Abolition of logrolling and restoration of the Wilson conception of a fact-finding tariff commission, quasi judicial, and free from the Executive domination which has destroyed the usefulness of the present commission.
>
> (d) Duties that will permit effective competition, insure against monopoly, and at the same time produce a fair revenue for the support of government. Actual difference between the cost of production at home and abroad, with adequate safeguard for the wage of the American laborer, must be the extreme measure of every tariff rate.
>
> (e) Safeguarding the public against monopoly created by special tariff favors.

So that there has been no variation from that policy, neither shadow of turning, since at least 1900, 30 years ago. Accord-

ingly, I am unable to perceive how any man professing adherence to Democratic principles and attachment to Democratic policies can consistently oppose this doctrine.

Where do we stand upon this matter now? We are in this position:

Certain great combinations in this country having a monopoly in their particular line of industry are so intrenched that if we endeavor to reduce the rates which have been accorded them, and through which they have grown great by combination of competing units into one great body, having eliminated all competition, we are in a situation where it is said that if we reduce the rates upon the products of these great combinations we will paralyze industry, we will injure somebody, and therefore they ought to be allowed to exist and get all the benefit of this favored legislation of the Congress.

Mr. President, legislation for the control or the suppression of trusts and monopolies can not possibly be enacted without its operating to the disadvantage of some of our people, unfortunate as that may be. Why, when the question was under consideration whether the great Steel Trust was or was not a monopoly in restraint of trade, and whether it should or should not be dissolved by the judgment of the court, it was ruled that it was a monopoly, that it was in existence contrary to the provisions of the antitrust act; but it was said, "If you destroy it, if you attempt to dissolve it, you will upset conditions of things and bring discomfort to somebody or other." Thus we are in a situation where the Congress of the United States is actually blackmailed into continuing favors that ought to have been taken away long ago.

I am heartily in favor of the amendment offered by the Senator from Nebraska, and I congratulate him upon presenting it to the Congress of the United States.

Mr. TRAMMELL. Mr. President, are we under limited debate?

The VICE PRESIDENT. Not on this amendment.

Mr. TRAMMELL. About the only thing I have to say is that if I have progressed a little more rapidly than the Democratic conventions have upon the tariff question, I have no particular apology to make for that.

I do not think I have progressed more rapidly, however, or that my action is inconsistent. If my action can be denounced as being inconsistent by the distinguished Senator from Montana [Mr. WALSH] then I will say that the action of every Member on the Democratic side, not excepting the Senator from Montana, during the consideration of this tariff bill, has been inconsistent with the Democratic platform.

The VICE PRESIDENT. The question is on the amendment of the Senator from Nebraska [Mr. NORRIS].

Mr. SMOOT. I call for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. GLASS (when his name was called). I have a general pair with the Senator from Connecticut [Mr. BINGHAM]. In his absence I withhold my vote.

Mr. OVERMAN (when his name was called). I have a general pair with the senior Senator from Illinois [Mr. DENEEN]. I transfer that pair to the junior Senator from Oklahoma [Mr. THOMAS] and will vote. I vote "yea."

Mr. SIMMONS (when his name was called). I have a general pair with the senior Senator from Massachusetts [Mr. GILLETT]. I transfer that pair to the senior Senator from Minnesota [Mr. SHIPSTEAD] and will vote. I vote "yea."

Mr. SULLIVAN (when his name was called). I have a pair with the junior Senator from Tennessee [Mr. BROCK]. Not knowing how he would vote on this question, I withhold my vote. If at liberty to vote, I should vote "nay."

Mr. THOMAS of Idaho (when his name was called). On this question I have a pair with the junior Senator from Montana [Mr. WHEELER]. I understand that if present he would vote "yea." I transfer that pair to the junior Senator from Kentucky [Mr. ROBSION], and will vote. I vote "nay."

Mr. TOWNSEND (when his name was called). On this question I have a pair with the senior Senator from Tennessee [Mr. MCKELLAR]. I understand that if he were present he would vote "yea." I transfer that pair to the Senator from Vermont [Mr. GREENE], and will vote. I vote "nay."

Mr. WATSON (when his name was called). I transfer my general pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Ohio [Mr. FESS], and will vote. I vote "nay."

The roll call was concluded.

Mr. LA FOLLETTE. I desire to announce that the senior Senator from Minnesota [Mr. SHIPSTEAD] is unavoidably absent and that if present he would vote "yea."

Mr. MCNARY. I desire to announce the following general pairs:

The Senator from Maine [Mr. GOULD] with the Senator from Utah [Mr. KING]; and

The Senator from Pennsylvania [Mr. REED] with the Senator from Arkansas [Mr. ROBINSON].

The result was announced—yeas 41, nays 34, as follows:

YEAS—41

Ashurst	Couzens	Howell	Simmons
Barkley	Cutting	Johnson	Steck
Black	Dill	Jones	Stephens
Blaine	Fletcher	La Follette	Swanson
Borah	Frazier	McMaster	Tydings
Bratton	George	Norbeck	Wagner
Brookhart	Harris	Norris	Walsh, Mass.
Capper	Harrison	Nye	Walsh, Mont.
Caraway	Hawes	Overman	
Connally	Hayden	Schall	
Copeland	Heflin	Sheppard	

NAYS—34

Allen	Hastings	Moses	Thomas, Idaho
Baird	Hatfield	Oddie	Townsend
Broussard	Hebert	Patterson	Trammell
Dale	Kean	Phipps	Vandenberg
Glenn	Kendrick	Pine	Walcott
Goff	Keyes	Robinson, Ind.	Waterman
Goldsborough	McCulloch	Shortridge	Watson
Grundy	McNary	Smoot	
Hale	Metcalf	Steiwer	

NOT VOTING—21

Bingham	Glass	Ransdell	Sullivan
Blease	Gould	Reed	Thomas, Okla.
Brock	Greene	Robinson, Ark.	Wheeler
Deneen	King	Robsion, Ky.	
Fess	McKellar	Shipstead	
Gillett	Pittman	Smith	

So Mr. NORRIS's amendment was agreed to.

Mr. SMOOT. Mr. President, I send to the desk an amendment, and I wish to submit another one after action on this one. Both amendments are to carry out the action taken yesterday in placing a duty on silver.

The VICE PRESIDENT. The amendment will be reported.

The CHIEF CLERK. The Senator from Utah offers the following amendment: On page 252, line 3, to strike out the words "or silver"; on page 254, line 19, to strike out the word "silver"; on line 20, after the word "metal," to insert the words "silver coin not dutiable under paragraph (b) and paragraph —"; on page 265, line 7, to strike out the word "silver"; on page 265, line 9, to strike out the words "and silver."

The VICE PRESIDENT. Is there objection to considering the amendments en bloc? The Chair hears none.

Mr. SMOOT. These amendments are to carry out the action of the Senate taken on yesterday in regard to a duty on silver.

The VICE PRESIDENT. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. SMOOT. Mr. President, in the amendment offered by the Senator from Nevada [Mr. PITTMAN], on page 2, I move to strike out the words "or silver," the last word on line 14 and the first word on line 15, and to insert the words "containing more than 5 ounces of silver per ton."

Mr. WALSH of Montana. Mr. President, I understand from the Senator that these are just compensatory rates.

Mr. SMOOT. Clarifying the action of the Senate taken on yesterday.

Mr. WALSH of Montana. Made necessary by the action taken last night fixing a duty on silver?

Mr. SMOOT. That is correct.

The VICE PRESIDENT. In order to consider this it will be necessary to reconsider the vote by which the amendment offered by the Senator from Nevada was agreed to.

Mr. SMOOT. I ask unanimous consent that the vote be reconsidered.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the vote is reconsidered.

The question is on agreeing to the amendment offered by the Senator from Utah to the amendment of the Senator from Nevada.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. TYDINGS. Mr. President, about a month ago the Senate, as in Committee of the Whole, reduced the rate on tinsel wire, lame, and some other material. The Senator from Wisconsin [Mr. LA FOLLETTE], after conferring with some of his constituents, desired to bring this matter up, and through a misunderstanding the other day he made a motion that the action of the Senate in reducing these rates be reconsidered, and that the Finance Committee rate be substituted in their place.

The Senator and I have conferred about the matter, and we have conferred also with the chairman of the Committee on Finance, and all those who are interested on both sides of this question. We have reached an agreement, which I hope the

Senate will pass upon in the form of a unanimous-consent agreement.

I ask that the action taken by the Senate, as reported on page 5087 of the CONGRESSIONAL RECORD, in reference to the duties on the articles to which I have referred, be reconsidered, and that the amendment proposed by the Finance Committee be agreed upon in the place of the action taken as in Committee of the Whole.

Mr. SMOOT. Mr. President, I want the Senator to understand that the matter will go to conference.

Mr. TYDINGS. I understand that.

Mr. LA FOLLETTE. Mr. President, I desire to join with the Senator from Maryland in this request; because, although I have not changed my mind concerning the fact that the 1922 rate should remain in force, the Senator misunderstood me and did not understand that I intended to take the matter up. I thought I had made it clear to him that I did intend to take it up, but he was not here when the action was taken; and, in order that the matter should be straightened out and the Senator protected, I am perfectly willing that the matter should go to conference.

The VICE PRESIDENT. Is there objection to reconsidering the votes by which the amendments were nonconcurred in? The Chair hears none, and the votes are reconsidered. The question now is on concurring in the amendments made as in Committee of the Whole.

The amendments made as in Committee of the Whole were concurred in.

The amendments referred to are as follows:

Page 111, line 25, strike out all after "pound" down to and including "valorem" in line 1, page 112.

Page 112, line 3, strike out all after "pound" down to and including "valorem" in line 4.

Page 112, line 6, strike out "35 per cent" and insert "20 per cent."

Page 112, line 10, strike out "45 per cent" and insert "30 per cent."

Page 112, line 13, strike out "55 per cent" and insert "40 per cent."

Mr. WALSH of Montana. Mr. President, I want to inquire of the chairman of the committee whether it would be advisable, in order to avoid confusion in the presentation of amendments from the floor, to have the amendments offered from the floor in the order in which the items appear in the bill.

Mr. SMOOT. Mr. President, I gave notice that that was what I would ask as soon as the amendments which we have just been considering had been acted upon.

I ask unanimous consent that the Senate shall first act upon amendments offered to Schedule 1, then on amendments offered to Schedule 2, and so on, until the bill is completed.

Mr. SWANSON. Mr. President, am I to understand that after the amendments to Schedule 1 have been acted upon the Senator will object to any other amendment being considered to that schedule?

Mr. SMOOT. That is my intention.

Mr. SWANSON. If that is not understood, I give notice that I shall object to any deviation from that course. This bill has been before us for months and months, we have been going over it and going back and going around and going across. I want it distinctly understood and embodied in this consent agreement that when Schedule 1 is before the Senate every amendment to that schedule must be offered and considered, and that when we go to Schedule 2 Schedule 1 will be considered as having been finally disposed of.

Mr. SMOOT. That is what I intended my request to cover.

Mr. SWANSON. I hope it will, and if we do not proceed along that line I shall object.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah? The Chair hears none, and it is so ordered.

Mr. CAPPER. Mr. President, I have an amendment to Schedule 1, which I desire to offer.

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

Mr. CAPPER. I yield.

Mr. HARRISON. I want to ask the Senator from Utah a question. There is one motion for reconsideration pending. Why should we not dispose of that before we get to the individual amendments? There is a motion to reconsider the vote on the duty on hides and shoes and leather.

Mr. SMOOT. I suppose it would be well to take that up now.

The VICE PRESIDENT. The Chair is advised that there are four motions to reconsider on the desk.

Mr. HARRISON. Mr. President, the one to which I refer is an important matter, and if we can act on that we will get along faster.

Mr. SMOOT. I ask unanimous consent that we now dispose of all motions providing for a reconsideration.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the first motion to reconsider will be reported.

Mr. SIMMONS. Mr. President, I have an amendment I desire to propose to paragraph 1406, relating to transparencies. I do not know whether it will be necessary to ask for a reconsideration of a certain vote taken as in Committee of the Whole upon that proposition. I intended to give notice and reserve a vote, and I thought I had done so, but it turns out that I did not. I ask the Senator from Utah, in charge of the bill, if, when that item is reached, I may not be permitted by unanimous consent, or by his consent, at least, to offer an amendment to restore the rate in the present law.

Mr. SMOOT. Mr. President, as far as I am personally concerned, I have no objection, knowing that the Senator was compelled to leave the Chamber at the time the amendment was acted on, as he was not feeling well.

Mr. SIMMONS. I just wanted to reserve that right.

Mr. SMOOT. For that reason, I have no objection.

The VICE PRESIDENT. The Secretary will report the first motion to reconsider.

The CHIEF CLERK. The motion to reconsider made by the senior Senator from New York [Mr. COPELAND], page 235, line 11, "Sponges."

Mr. COPELAND. Mr. President, the rate on sponges was materially raised over the rate in the present law, and if the correspondence of other Senators has been anything like mine they have had protests from garages and paint shops, from lithographic establishments, from all those who use such sponges as are covered by this provision.

I am sure there is no reason for the imposition of a duty upon sponges, when the persons interested in the production of these sponges in the United States are so limited in number. A few persons, largely foreigners, in one little village in Florida are the only ones producing these sponges. These sponges are used in every garage, they are used in washing windows, they are used in washing the baby carriage. My proposal is that the amendments adopted in this paragraph be disagreed to, and that we return to the rate in the original law, whatever that is.

Mr. FLETCHER. What is the page?

Mr. COPELAND. Page 235, paragraph 1545.

Mr. WALSH of Massachusetts. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Massachusetts?

Mr. COPELAND. I yield.

Mr. WALSH of Massachusetts. Can the Senator state the date when this was last under consideration before the Senate?

Mr. COPELAND. I am sorry that I can not.

The VICE PRESIDENT. It was on the 25th of February.

Mr. COPELAND. May I ask the Senator from Utah to tell us what the rate is in the 1922 law?

Mr. SMOOT. It is 15 per cent.

Mr. COPELAND. The amendment offered was——

Mr. FLETCHER. It provided 40 per cent on sheep's wool sponges, but not on anything else. The increase was to 40 per cent on the particular kind of sponge, but the others would remain the same as in the bill.

Mr. COPELAND. If the Senator from Florida is agreeable, and will withdraw the 40 per cent on the high-priced sponge, I will have nothing to say about leaving the rest of the amendment as it is, although I do think that we ought to come back to the present law. I can see no excuse whatever for an increase.

Mr. FLETCHER. Mr. President, the matter was quite thoroughly considered in Committee of the Whole. We went over the whole subject at that time and then the amendment was offered and the increase was provided for the sheep's wool sponge to 40 per cent, and the others remain as in the bill. The amendment was agreed to when the bill came up in regular order and then the amendment was concurred in in the Senate. I thing we have had enough debate on the subject. I do not think we ought to take time to reconsider what was done in Committee of the Whole and what was done in the Senate after the bill was reported to the Senate.

Mr. COPELAND. It is only fair to say, however, that the matter came up last Monday. I had made a reservation on the amendment and was absent from the Chamber, and therefore there was no discussion of the matter at that time, at least from my standpoint.

Mr. FLETCHER. That is true.

Mr. COPELAND. So there has been one consideration of the matter in Committee of the Whole and that is all.

Mr. FLETCHER. Mr. President, the Senator is correct. I believe he was absent, but the matter was reached in regular order. I think there were several reservations which the

Senator from New York had made. It was announced that he was absent, but the chairman of the committee stated that he did not propose to ask for any further delay and that his understanding was we might proceed with the reservations. They were disposed of accordingly.

Mr. President, with reference to the sponge industry I will say that it is quite an important industry. There is a coast line of probably 200 miles in length along the coast of Florida from Appalachicola on around to Key West and out to sea some distance. The operators have to go out in boats which they must equip. They have to employ divers who are experts. They have to go down from 6 to 20 fathoms in water in order to gather the sponges. The cost is very considerably higher than the cost of competing sponge operators in Cuba, for instance. I think that is the main competition. There they do not have to have the divers and they do not use the boats which have to be specially equipped. They get their sponges at a very much less cost of production. The difference in the cost of production is measured by the increase in the duty. It is not a small affair at all.

Tarpon Springs, on the coast of Florida, is largely a Greek settlement. The Senator from New York mentioned that some few foreigners are engaged in the enterprise. They are American citizens. They have to employ expert divers from the Mediterranean very largely to gather these sponges.

It is a choice sponge which is now under discussion, superior to anything else offered in the American market. All dealers will admit it is superior to the imported sponges. It is the particular sponge used largely for washing automobiles and things of that sort. The amendment does not refer to other kinds of sponges used in surgery and used for other purposes. This particular sponge, known as the sheep's wool sponge, is a sponge that is gathered there along the Gulf for a considerable distance and at considerable expense. The people engaged in the industry feel that they ought to have this duty in order to cover the difference in the cost of production in other countries and here. The sponge industry exists in the Mediterranean. It has been conducted there for hundreds of years. They may import some sponges to this country; I do not know about that. But these particular sponges are superior in every way and they are gathered at considerable expense.

It is a thriving industry. The sponges are placed in an area where the buyers come, and they are auctioned off and sold to the buyers. It is claimed that unless we can have this duty the domestic industry can not go ahead. I think they have made out their case. I went all over the matter when we had it up before. I had the statistics before me at that time. I appeal to the Senate to stand by its action in Committee of the Whole and in the Senate and not to reconsider the question and open it all up again.

The PRESIDING OFFICER (Mr. FESS in the chair). The question is on the motion of the Senator from New York [Mr. COPELAND] to reconsider the action of the Senate whereby the amendment made as in Committee of the Whole was concurred in.

Mr. WALSH of Massachusetts. Mr. President, in behalf of the protests that have come to me because of the increased duty levied in the Senate I think I ought to call the attention of the Senate to what I prepared to present on this subject when the matter previously came before the Senate and after the hearings were held by the Finance Committee:

First and foremost, sponges from Florida and Cuba are not competitive. They are of entirely different texture used for entirely different purposes. The Florida sponge is much harder and more durable than the Cuba sponge and is used principally for such purposes as washing automobiles. The Cuba sponges are soft and are used for washing walls, fine woodwork, and calcimining. The American sponge is not serviceable for such work.

Distributors testify that very few of the sponges sold are sold to individual buyers. The buyers are mostly large industries who have specifications to which the distributors must adhere. The United States Government specifies a certain kind, and they will not take any other kind. The automobile industries and railroads specify certain sizes and kinds. Sponges are purchased for their texture rather than their selling price, and, therefore, a tariff would not aid the American industry. In fact, at the present time Florida sponges sell for $3.40 a pound and the Cuba sponges for 20 cents more, or $3.60 a pound.

Sponges from Cuba do not always sell for more than sponges from Florida. The selling price depends entirely upon the demand.

I would like to have the opinion of the Senator from Florida in reference to that statement. I will say that the evidence shows that it does cost more to operate for these sponges in the waters of Florida than in Cuba. I understand the expense is considerably more. I think the evidence clearly shows that, but I am impressed with the fact that they are not competitive.

Mr. FLETCHER. I am willing to concede that the Florida sponge is superior to every other sponge of this kind, but at the same time I do not admit that they are not competitive with anybody because the testimony before the Finance Committee of those people engaged in the industry shows, and they claim, that it is competitive with Cuba. The Tariff Commission reports that in 1927 Cuba supplied 74 per cent in quantity and 75 per cent in value, and the Bahamas 22 per cent in quantity and 14 per cent in value, of all sponges imported. That is a very considerable competition. I think the statement the Senator made as to Cuban sponges not being competitive with Florida sponges is rather inspired by sponge dealers and otherwise. I think it is in error. The testimony shows that they do compete and that the main ground for asking this increase is Cuban competition.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York to reconsider the action by which the Senate concurred in the amendment made as in Committee of the Whole.

The motion to reconsider was not agreed to.

The PRESIDING OFFICER. The clerk will state the next question reserved.

The CHIEF CLERK. On page 245, line 1, umbrellas.

Mr. COPELAND. Mr. President, if it is the determination of the Senate to vote down without consideration or discussion these various reservations, the Senate may go ahead and do it and there is no use wasting breath on the subject. The subject on which we just passed is a subject with reference to which every Senator in the Chamber has had dozens of letters from automobile people all over the country, in every State and every community, asking for a decrease in the rate. However, if we have a determined policy that the matter having once been settled it can never be reconsidered, there is no use giving consideration to any of these matters.

I know that when Senators go back to their offices, if they have been systematic at all in keeping the material that has come to them, they will find that dozens of their home citizens have protested against this tax on sponges. It is an outrageous thing, when we are supplying sponges in large quantities, to place this great rate upon a sponge used everywhere there is an automobile and everywhere there is a baby carriage. That is all I have to say about it.

So far as the vote on umbrellas is concerned, it may be taken with very little further discussion on my part. The fact is that on the component parts of umbrellas we have a very much lower rate than on the finished article. We have an opportunity to bring those parts into the United States and to assemble them, employing our own labor, and yet the rate is so fixed that there is no encouragement whatever for the support of the American industry.

I move to reconsider the vote by which the amendment made as in Committee of the Whole was concurred in.

The PRESIDING OFFICER. The question is on the motion of the Senator from New York.

The motion to reconsider was not agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment reserved.

The CHIEF CLERK. On page 241, lines 9 and 10, beeswax.

Mr. WATSON. Mr. President, I ask unanimous consent that on all motions for reconsideration no Senator be permitted to speak longer than 10 minutes or more than once.

Mr. COPELAND. I object.

Mr. SMOOT. That is already in the agreement. Debate is limited to five minutes.

Mr. WATSON. No; there is no limitation on debate upon motions to reconsider.

The PRESIDING OFFICER. The Chair will state that the limitation on debate is 10 minutes instead of 5 minutes. The question is on the motion of the Senator from New York to reconsider the vote on the beeswax item.

Mr. COPELAND. Mr. President, I am inclined to think that some of my friends—and I am saying this in good temper—are failing to give consideration to their own folks at home. When it comes to the matter of beeswax every Senator here has had letters from Catholic Churches, from the directors of those churches, pointing out the significance of the rate upon beeswax. The debate was had at very great length during my absence. I read it in the RECORD afterwards. It is unfair to place this rate upon crude beeswax. The amount of beeswax purchased by the farmers is practically the amount that they sell, because it all comes back to make the forms in the hives.

Mr. President, the rates which were fixed by the vote of the Senate the other day at 12 cents on crude beeswax and 25 cents on bleached beeswax mean that this industry, which has been carried on by the importation of millions of pounds of beeswax

from Europe, will be destroyed and the finished candles and other articles made from beeswax will be imported into the United States. The rate proportion fixed as between the crude beeswax and bleached beeswax is not harmonious. There is no compensatory rate at all that is adequate upon beeswax. That is all I care to say about it.

Mr. WALSH of Massachusetts. Mr. President, if I remember rightly during the Senator's absence he was represented as favoring the duties which have been placed on crude and bleached beeswax.

Mr. COPELAND. I was never in favor of a rate so high as 12 per cent on crude beeswax.

Mr. WALSH of Massachusetts. Has the Senator read the RECORD?

Mr. COPELAND. I have not.

Mr. WALSH of Massachusetts. My impression is that the Senator was represented as favoring those rates.

Mr. COPELAND. I would never go as high as 12 per cent on crude beeswax; I am willing to go to some extent, but not that far.

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

Mr. COPELAND. I yield.

Mr. VANDENBERG. I want to correct the Senator from Massachusetts and his attention is requested. I undertook to quote the Senator from New York to the effect that he had tentatively agreed to a rate of 10 per cent on crude beeswax, which I think is correct.

Mr. COPELAND. That is correct.

The PRESIDING OFFICER. The question is on the motion to reconsider the vote by which the amendment relative to beeswax was adopted.

The motion was rejected.

The PRESIDING OFFICER. The next amendment will be stated.

The CHIEF CLERK. On page 279, line 8, works of art.

Mr. COPELAND. Mr. President, I have just one suggestion to make about this item. I should like to have the attention of the Senator from Utah and the attention of the Senator from Michigan. Paragraph 1812 relates to works of art. After long debate we determined to fix the deadline at 1830 as to furniture. It is my suggestion that we make the same date with reference to rugs and carpets. The reason I am making the request is because the museums of the country have written asking that that be done. Many antique rugs which were made between 1700 and 1830 are very valuable as models and valuable also for exhibition purposes; and my opinion is that we ought to strike out the words in parenthesis in lines 7 and 8, so that works of art, which would also include rugs and carpets, would have the deadline of 1830, which has been fixed for antique furniture and antiques. I am sure both Senators will agree to that.

Mr. SMOOT. Mr. President, since action was taken upon this item I have received a letter from the Treasury Department in relation to it. I ask the Senator to consent to leave the date 1700 as it is now in the bill. Then the entire subject will be in conference, but if we insert the date 1830 as to carpets and rugs the item will not be in conference at all. I will assure the Senator that in conference I will get a complete statement from the Treasury Department, and, if they desire the date changed to 1830, and the reasons given are sufficient, I will be perfectly willing to have that done.

Mr. COPELAND. I thank the Senator. I will ask the Senator if the fact that the first three or four words in parenthesis are identical with the House language will be embarrassing to the conferees?

Mr. SMOOT. I want the date 1700 to remain as it is in the parenthesis; otherwise, it might be embarrassing.

Mr. COPELAND. The Senator from Utah has assured me that the conferees will consult with the Treasury Department regarding the feasibility of the suggestion which I have made, and, therefore, I withdraw my request in connection with this item.

The PRESIDING OFFICER. The next amendment will be stated.

The CHIEF CLERK. On page 199, line 16, greeting cards.

Mr. WALSH of Massachusetts. On page 199, line 15, after the word "thousand," I move to strike out the remainder of line 15, line 16, line 17, and line 18, and in lieu thereof to insert:

> Greeting cards, valentines, tally cards, place cards, and all other social and gift cards, including folders, booklets, and cutouts, or in any other form, wholly or partly manufactured, with greeting, title, or other wording, 45 per cent ad valorem; without greeting, title, or other wording, 30 per cent ad valorem.

The purpose of this amendment is to clarify the meaning and avoid litigation in the Customs Court as to which articles are covered by the paragraph. For example, the word "valentines" was added because the Customs Court held that "greeting cards" in the act of 1922 did not include valentines.

Paragraph 1410 in its present form invites litigation, whereas with the changes recommended in this amendment, I believe that the intent will be so clear that customs litigation will be avoided.

I believe that all the experts agree that what I have suggested is an improvement, and I think the members of the Finance Committee also agree that it is an improvement in the language which at present appears in the paragraph.

Mr. SMOOT. I was going to ask that the same thing be done, and I fully approve of the amendment the Senator suggests.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Massachusetts to the amendment made as in Committee of the Whole.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BARKLEY. Are we now proceeding under the unanimous consent agreement to consider the bill schedule by schedule?

The PRESIDING OFFICER. Not as yet.

Mr. SMOOT. These are reservations.

The PRESIDING OFFICER. The next amendment will be stated.

The CHIEF CLERK. On page 219, line 1, hats, reserved by the Senator from Pennsylvania [Mr. GRUNDY].

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. GRUNDY. I ask that it be passed over.

The PRESIDING OFFICER. It can not be passed over. What disposition does the Senator desire made of it? Does he desire to withdraw it?

Mr. GRUNDY. I withdraw it.

Mr. SMOOT. Mr. President, I think the Senator from Massachusetts [Mr. WALSH] is interested in this item, and I understand he has an amendment he desires to offer to it. I think the Senator from Massachusetts has come to the conclusion that $11 is a proper rate instead of $10.

Mr. WALSH of Massachusetts. Mr. President, it is a case where the committee in breaking up one bracket and providing for two brackets made one of the rates greatly in excess of that in the present law, and the other only very slightly in excess of the rate in present law. It was my purpose and intention to restore the rate to that provided by the present law only, but in my amendment in the second bracket the rate agreed to was slightly under that of the present law. I repeat I did not intend and do not intend to do anything but restore the rate to that of the present law as to those two brackets.

Mr. SMOOT. Then the rate should be $11 instead of $10.

Mr. WALSH of Massachusetts. I ask that the numeral "10" in line 2 be made "11," which will restore the rate of the present law, and retain the purpose and intent of my original motion to reduce the duties reported by the committee.

The PRESIDING OFFICER. Without objection, the motion by which the amendment inserting $10 was agreed to will be reconsidered. The question now is on the amendment of the Senator from Massachusetts to change "$10" to "$11."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The PRESIDING OFFICER. The Secretary will state the next amendment.

The CHIEF CLERK. Paragraph 1530, hides and leather, reserved by Mr. HEBERT.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Allen	Frazier	Kendrick	Shortridge
Ashurst	George	Keyes	Simmons
Baird	Glass	La Follette	Smoot
Barkley	Glenn	McCulloch	Steck
Black	Goff	McMaster	Steiwer
Blaine	Goldsborough	McNary	Stephens
Blease	Grundy	Metcalf	Sullivan
Borah	Hale	Moses	Swanson
Bratton	Harris	Norbeck	Thomas, Idaho
Brookhart	Harrison	Norris	Thomas, Okla.
Broussard	Hastings	Nye	Townsend
Capper	Hatfield	Oddie	Trammell
Connally	Hawes	Phipps	Tydings
Copeland	Hayden	Pine	Vandenberg
Couzens	Hebert	Pittman	Wagner
Cutting	Heflin	Ransdell	Walcott
Dale	Howell	Robinson, Ind.	Walsh, Mass.
Dill	Johnson	Robsion, Ky.	Walsh, Mont.
Fess	Jones	Schall	Waterman
Fletcher	Kean	Sheppard	Watson

The VICE PRESIDENT. Eighty Senators have answered to their names. There is a quorum present.

The question is on the motion of the Senator from Rhode Island [Mr. HEBERT] to reconsider the vote whereby the amendment made as in Committee of the Whole to paragraph 1530, hides and leather, was concurred in.

Mr. FESS. I ask unanimous consent that no Senator be permitted to speak longer than 10 minutes nor more than once on the motion to reconsider.

The VICE PRESIDENT. Is there objection?

Mr. ODDIE. Mr. President, I was about to suggest an even shorter time.

Mr. HARRISON. Will not the Senator suggest a shorter time?

Mr. ODDIE. I would suggest no debate at all. I think we can get through with this matter quicker if we have no debate.

SEVERAL SENATORS. Vote!

Mr. NORRIS. I call for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on the motion of the Senator from Rhode Island [Mr. HEBERT] to reconsider the vote whereby the amendment made as in Committee of the Whole to paragraph 1530, hides and leather, was concurred in. On that question the yeas and nays have been demanded and ordered. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. ALLEN (when his name was called). Upon this question I have a pair with the junior Senator from Arkansas [Mr. CARAWAY] and therefore withhold my vote. If the Senator from Arkansas were present, he would vote "nay," and if I were at liberty to vote I should vote "yea."

Mr. NORBECK (when his name was called). On this question I have a pair with the junior Senator from Tennessee [Mr. BROCK]. If he were present, he would vote "nay," and if I were at liberty to vote I should vote "yea."

Mr. THOMAS of Idaho (when his name was called). On this question I have a pair with the junior Senator from Montana [Mr. WHEELER] and therefore withhold my vote. If he were present, he would vote "nay," and if I were at liberty to vote I should vote "yea."

Mr. WATSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. I am unable to obtain a transfer and therefore withhold my vote. If voting, I should vote "yea."

The roll call was concluded.

Mr. SIMMONS. I transfer my general pair with the Senator from Massachusetts [Mr. GILLETT] to the Senator from Maryland [Mr. TYDINGS] and will vote. I vote "nay."

Mr. ROBINSON of Indiana (after having voted in the affirmative). I note the absence of the junior Senator from Mississippi [Mr. STEPHENS], with whom I have a pair. Therefore I withdraw my vote.

Mr. GLASS. I have a general pair with the senior Senator from Connecticut [Mr. BINGHAM]. On this question I am released from my pair and therefore vote. I vote "nay."

Mr. FESS. On this question the Senator from Missouri [Mr. PATTERSON] is paired with the Senator from North Carolina [Mr. OVERMAN]. If the Senator from Missouri were present, he would vote "yea," and if the Senator from North Carolina were present he would vote "nay."

Mr. TOWNSEND. I am paired with the senior Senator from Tennessee [Mr. MCKELLAR] and therefore withhold my vote. I understand that if he were present he would vote "nay"; and if I were at liberty to vote, I should vote "yea."

Mr. FESS. I desire to announce that the Senator from Vermont [Mr. GREENE] is paired on this question with the Senator from Louisiana [Mr. RANSDELL].

The result was announced—yeas, 34, nays 33, as follows:

YEAS—34

Ashurst	Goff	Kendrick	Schall
Baird	Goldsborough	McCulloch	Sheppard
Bratton	Grundy	McMaster	Shortridge
Brookhart	Hastings	McNary	Steiwer
Broussard	Hatfield	Nye	Sullivan
Capper	Hayden	Oddie	Walcott
Copeland	Hebert	Phipps	Waterman
Cutting	Howell	Pine	
Frazier	Kean	Pittman	

NAYS—33

Barkley	Fletcher	Johnson	Steck
Black	George	Jones	Swanson
Blaine	Glass	Keyes	Vandenberg
Blease	Glenn	La Follette	Wagner
Borah	Hale	Metcalf	Walsh, Mass.
Connally	Harris	Moses	Walsh, Mont.
Couzens	Harrison	Norris	
Dill	Hawes	Simmons	
Fess	Heflin	Smoot	

NOT VOTING—29

Allen	Greene	Robinson, Ark.	Townsend
Bingham	King	Robinson, Ind.	Trammell
Brock	McKellar	Robsion, Ky.	Tydings
Caraway	Norbeck	Shipstead	Watson
Dale	Overman	Smith	Wheeler
Deneen	Patterson	Stephens	
Gillett	Ransdell	Thomas, Idaho	
Gould	Reed	Thomas, Okla.	

So the motion to reconsider was agreed to.

The VICE PRESIDENT. The question now is upon agreeing to the amendment of the Senator from Nevada [Mr. ODDIE], as amended, to the amendment made as in Committee of the Whole.

Mr. ODDIE. Mr. President, this matter has been so thoroughly discussed that for my part I do not favor any more debate. I can not stop anybody else who cares to speak on the subject, but I should like to see it disposed of without further debate.

The VICE PRESIDENT. The question is on agreeing to the amendment as amended.

Mr. HARRISON. I call for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. ALLEN (when his name was called). On this vote I have a pair with the junior Senator from Arkansas [Mr. CARAWAY]. If he were present, he would vote "nay," and I would vote "yea."

Mr. SMOOT. A parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. SMOOT. What is the Senate voting on?

The VICE PRESIDENT. On the amendment of the Senator from Nevada [Mr. ODDIE] to the amendment made as in Committee of the Whole.

Mr. SMOOT. Was that laid before the Senate?

The VICE PRESIDENT. It was not laid before the Senate. It was assumed it was offered, because it had been read before.

Mr. HARRISON. Mr. President, I submit that some of us, at least, thought that what we were voting on was the amendment adopted the other day. We were not apprised that there was any other amendment offered to that amendment. It was not read; it was not offered.

Mr. ODDIE. Mr. President, that is what I understand we are voting on, the Oddie amendment, as amended by the Howell amendment, and rejected by the Senate.

SEVERAL SENATORS. Regular order!

The VICE PRESIDENT. The vote a few moments ago was on the motion to reconsider the vote by which the amendment made as in Committee of the Whole was concurred in. The vote was reconsidered, and that brought the amendment back with the amendment offered by the Senator from Nevada as amended.

Mr. WALSH of Montana. Mr. President, I ask unanimous consent that the roll call thus far taken be vacated in order that some one may explain what it is we are voting on.

The VICE PRESIDENT. Without objection, that order will be made.

Mr. DILL. Mr. President, will not somebody tell us what the question is on which we are to vote?

The VICE PRESIDENT. The Chair has stated.

Mr. DILL. I could not hear what the Chair said.

The VICE PRESIDENT. Let the Senate be in order. The clerk will report the pending amendment, the amendment offered by the Senator from Nevada [Mr. ODDIE] as amended, to the amendment made as in Committee of the Whole.

The CHIEF CLERK. The amendment offered by the Senator from Nevada [Mr. ODDIE] as amended was as follows:

PAR. 1530. (a) Hides and skins of cattle of the bovine species (except hides and skins of the Indian water buffalo imported to be used in the manufacture of rawhide articles), raw or uncured, or salted or pickled, 4 cents per pound——

Mr. WALSH of Montana. Mr. President, am I correct in the assumption that the matter to be voted upon now is the amendment as offered by the Senator from Nevada as amended on the motion of the Senator from Nebraska [Mr. HOWELL]?

The VICE PRESIDENT. That is the understanding of the Chair.

Mr. WALSH of Montana. The amendment of the Senator from Nevada as thus amended was defeated upon the former vote?

The VICE PRESIDENT. It was.

Mr. WALSH of Montana. I inquire upon whose motion is the matter before the Senate now?

The VICE PRESIDENT. The junior Senator from Rhode Island [Mr. HEBERT] entered a motion.

Mr. WALSH of Montana. Then I think the amendment is thoroughly understood, and I do not believe that anybody asks that it be read again.

The VICE PRESIDENT. Does the Senator from Washington ask that the amendment be read?

Mr. DILL. No, Mr. President; I asked what we were voting on. I know what the Oddie amendment is.

Mr. WALSH of Montana. I asked that the further reading be dispensed with.

Mr. ROBSION of Kentucky. I object.

The VICE PRESIDENT. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. TRAMMELL. Mr. President, before the clerk begins calling the roll I would like to make an inquiry, so that I can vote intelligently upon this amendment. At the time we voted on the amendment previously I was under the impression, and I think quite a good many others were, that the Oddie amendment prescribed a higher rate of duty on leather and shoes, as well as on hides, than the duty prescribed in the House text on leather and shoes; in other words, that it prescribed a higher rate of compensatory duty on account of the increase in the rate on hides from 10 per cent to 4 cents a pound.

I would like to vote for the lower compensatory rate on leather and shoes. The fact that the duty on hides may be increased from 10 per cent ad valorem to 4 cents a pound does not disturb me, but I want to vote for a lower rate on leather and shoes. Can the Senator give me any information about that?

Mr. SWANSON. Mr. President, I make the point of order that the unanimous-consent agreement definitely specified that the roll call was to be set aside simply for a statement from the desk as to what we were voting on. It was limited to that. It was not a general unanimous consent. It was limited, as I understood it, to that one thing, and I object to any further debate.

Mr. TRAMMELL. A parliamentary inquiry.

The VICE PRESIDENT. The roll call was vacated, but the yeas and nays were ordered and the clerk directed to call the roll.

Mr. ROBSION of Kentucky. I objected to the suspension of the reading of the amendment. I desire to hear it read.

Mr. TRAMMELL. Mr. President, I do not desire to provoke any discussion; that is not my idea; but I would like to be able to vote intelligently. If I had about 10 minutes I could take the amendment and the House text and compare them, but I have not had time to do that.

The VICE PRESIDENT. Let the amendment be read. The Senate will be in order, so that Senators can hear the reading of the amendment.

The CHIEF CLERK. On page 224, strike out all after line 20 down through and including line 16, on page 228, and insert the following:

PAR. 1530. (a) Hides and skins of cattle of the bovine species (except hides and skins of the India water buffalo imported to be used in the manufacture of rawhide articles), raw or uncured, or salted or pickled, 4 cents per pound; if dried (including dry salted), 8 cents per pound.

(b) Leather (except leather provided for in subparagraph (d) of this paragraph), made from hides or skins of cattle of the bovine species:

(1) Sole, belting, or harness leather (including offal), rough, partly finished, finished, curried, or cut or wholly or partly manufactured into outer or inner soles, blocks, strips, counters, taps, box toes, or any forms or shapes suitable for conversion into boots, shoes, footwear, belting, harness, or saddlery, 6 cents per pound and 6 per cent ad valorem;

(2) leather welting, 6 cents per pound and 10 per cent ad valorem;

(3) side upper leather (including grains and splits) and patent leather, rough, partly finished, or finished, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear, 5.2 cents per square foot and 4.8 per cent ad valorem;

(4) leather made from calf or kip skins, rough, partly finished, or finished, or cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear, 3.6 cents per square foot and 10 per cent ad valorem;

(5) upholstery, collar, bag, case, glove, garment, or strap leather, in the rough, in the white, crust, or russet, partly finished, or finished, 4.6 cents per square foot and 16.3 per cent ad valorem;

(6) All other, rough, partly finished, finished, or curried, not specially provided for, 6 cents per pound and 10 per cent ad valorem.

(c) Goat, kid, and other leather (except leather provided for in subparagraph (d) of this paragraph), made from hides or skins of animals (including fish, reptiles, and birds, but not including cattle of the bovine species), in the rough, in the white, crust, or russet, partly finished, or finished, 10 per cent ad valorem; rough-tanned or semitanned leather made from genuine reptile skins 15 per cent ad valorem; vegetable-tanned rough leather made from goat and sheep skins (including those commercially known as India-tanned goat and sheep skins), vegetable rough-tanned pig and hog skins, and rough-tanned skivers, 10 per cent ad valorem. If cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear, such articles shall be subject to the same rate of duty as the leather from which they are manufactured.

(d) Leather of all kinds, grained, printed, embossed, ornamented, or decorated, in any manner or to any extent (including leather finished in gold, silver, aluminum, or like effects), or by any other process (in addition to tanning) made into fancy leather, and any of the foregoing cut or wholly or partly manufactured into uppers, vamps, or any forms or shapes suitable for conversion into boots, shoes, or footwear, all the foregoing by whatever name known, and to whatever use applied, 5.2 cents per square foot and 10 per cent ad valorem. Leather shall not be considered within the provisions of this subparagraph by reason of there being placed thereon the trade-mark, the trade name, the name and address of the manufacturer, and the name of the country of origin.

(e) Boots, shoes, or other footwear (including athletic or sporting boots and shoes), made wholly or in chief value of leather, not specially provided for, as follows: Other than footwear of the McKay type of manufacture for women and other than footwear for children, 14 cents per pair; footwear of the McKay type of manufacture for women, 8 cents per pair and 20 per cent ad valorem; boots, shoes, or other footwear (including athletic or sporting boots and shoes), the uppers of which are composed wholly or in chief value of wool, cotton, ramie, animal hair, fiber, rayon or other synthetic textile, silk, or substitutes for any of the foregoing, whether or not the soles are composed of leather, wood, or other materials, 6 cents per pair and 35 per cent ad valorem.

(f) Harness valued at more than $70 per set, single harness valued at more than $40, saddles valued at more than $40 each, saddlery, and parts (except metal parts) for any of the foregoing, 40 per cent ad valorem; saddles made wholly or in part of pigskin or imitation pigskin, 35 per cent ad valorem; saddles and harness, not specially provided for, parts thereof, except metal parts, and leather shoe laces, finished or unfinished, 20 per cent ad valorem.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. HOWELL. Mr. President, a few moments of explanation will make clear to what extent——

Mr. SWANSON. I make a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. SWANSON. My point of order is that the roll call was vacated simply for the purpose of having the amendment read for the information of the Senate, and it was not set aside in order that debate might be reopened. I think the very language used by the Senator from Montana was that the roll call should be vacated or suspended only for that purpose. The clerk had started calling the roll, and two Senators had answered. I insist that unanimous consent was given under those conditions.

Mr. TRAMMELL. Mr. President, I ask that the Senator from Nebraska be given the privilege of explaining the amendment.

Mr. SWANSON. I object.

The VICE PRESIDENT. The Secretary will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Connecticut [Mr. BINGHAM]. On this question I am released from my pair and therefore vote. I vote "nay."

Mr. NORBECK (when his name was called). On this question I am paired with the junior Senator from Tennessee [Mr. BROCK]. If he were present, he would vote "nay." If permitted to vote, I would vote "yea."

Mr. RANSDELL (when his name was called). I have a pair on this vote with the Senator from Vermont [Mr. GREENE]. In his absence I withhold my vote. If permitted to vote, I would vote "yea."

Mr. SIMMONS (when his name was called). Making the same announcement as to my pair and its transfer as on the previous vote, I vote "nay."

Mr. THOMAS of Idaho (when his name was called). On this vote I have a pair with the junior Senator from Montana [Mr. WHEELER]. I have been informed that if he were present and voting he would vote "nay." If I were permitted to vote, I would vote "yea."

Mr. TOWNSEND (when his name was called). On this vote I have a pair with the senior Senator from Tennessee [Mr. MCKELLAR]. If permitted to vote, I would vote "yea."

Mr. WATSON (when his name was called). I have a general pair with the Senator from South Carolina [Mr. SMITH]. I am unable to secure a transfer, and therefore must withhold my vote. If permitted to vote, I should vote "yea."

The roll call was concluded.

Mr. ALLEN. On this vote I have a pair with the junior Senator from Arkansas [Mr. CARAWAY]. If he were present, he would vote "nay." If I were at liberty to vote, I should vote "yea."

Mr. FESS. I desire to announce the following pairs:

The Senator from Pennsylvania [Mr. REED] with the Senator from Arkansas [Mr. ROBINSON];

The Senator from Maine [Mr. GOULD] with the Senator from Utah [Mr. KING];

The Senator from Missouri [Mr. PATTERSON] with the Senator from North Carolina [Mr. OVERMAN]; and

The Senator from Connecticut [Mr. WALCOTT] with the Senator from Illinois [Mr. DENEEN].

The result was announced—yeas 35, nays 36, as follows:

YEAS—35

Ashurst	Frazier	Jones	Pittman
Baird	Goff	Kean	Robinson, Ind.
Bratton	Goldsborough	Kendrick	Schall
Brookhart	Grundy	McCulloch	Sheppard
Broussard	Hastings	McNary	Shortridge
Capper	Hatfield	Nye	Steiwer
Copeland	Hayden	Oddie	Sullivan
Cutting	Hebert	Phipps	Waterman
Fess	Howell	Pine	

NAYS—36

Barkley	George	Keyes	Steck
Black	Glass	La Follette	Stephens
Blaine	Glenn	McMaster	Swanson
Blease	Hale	Metcalf	Thomas, Okla.
Borah	Harris	Moses	Trammell
Connally	Harrison	Norris	Vandenberg
Couzens	Hawes	Robsion, Ky.	Wagner
Dill	Heflin	Simmons	Walsh, Mass.
Fletcher	Johnson	Smoot	Walsh, Mont.

NOT VOTING—25

Allen	Gould	Ransdell	Tydings
Bingham	Greene	Reed	Walcott
Brock	King	Robinson, Ark.	Watson
Caraway	McKellar	Shipstead	Wheeler
Dale	Norbeck	Smith	
Deneen	Overman	Thomas, Idaho	
Gillett	Patterson	Townsend	

So Mr. ODDIE's amendment to the amendment made as in Committee of the Whole was rejected.

The amendment made as in Committee of the Whole was concurred in.

Mr. WALSH of Montana. Mr. President, I ask unanimous consent to have incorporated in the RECORD the vote on hides and leather taken on last Monday.

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

The vote is as follows:

The Chief Clerk proceeded to call the roll.

Mr. HAYDEN (when Mr. ASHURST's name was called). My colleague, the senior Senator from Arizona [Mr. ASHURST], is necessarily absent. He is paired with the senior Senator from Illinois [Mr. DENEEN]. If my colleague were present, he would vote "yea," and if the Senator from Illinois were present, he would vote "nay."

Mr. GLENN (when his name was called). I have a special pair for the day with the junior Senator from Arkansas [Mr. CARAWAY]. I am informed that our views on the pending question are in accord, and I am therefore free to vote. I vote "nay."

Mr. OVERMAN (when his name was called). I am informed that my general pair, the Senator from Illinois [Mr. DENEEN] would vote as I expect to vote on this question. Therefore I am released from my pair and vote "nay."

Mr. SIMMONS (when his name was called). I transfer my pair heretofore announced to the senior Senator from Kentucky [Mr. BARKLEY] and will vote. I vote "nay."

Mr. SULLIVAN (when his name was called). I renew my statement made on previous roll calls and withhold my vote.

Mr. WATSON (when his name was called). I transfer my pair with the Senator from South Carolina [Mr. SMITH] to the Senator from Oklahoma [Mr. PINE] and will vote. I vote "yea."

The roll call was concluded.

Mr. BLACK. On this question I have a pair with the senior Senator from New York [Mr. COPELAND], which I transfer to the junior Senator from Arkansas [Mr. CARAWAY], and will vote. I vote "nay."

Mr. FESS. I desire to announce the following general pairs:

The Senator from Pennsylvania [Mr. REED] with the Senator from Arkansas [Mr. ROBINSON]; and

The Senator from Maine [Mr. GOULD] with the Senator from Utah [Mr. KING].

The result was announced—yeas 37, nays 42, as follows:

Yeas, 37: Messrs. Allen, Baird, Borah, Bratton, Brookhart, Broussard, Capper, Cutting, Fess, Frazier, Goff, Goldsborough, Grundy, Hastings, Hatfield, Hayden, Howell, Jones, Kean, Kendrick, McCulloch, McNary, Norbeck, Oddie, Patterson, Phipps, Pittman, Ransdell, Robinson of Indiana, Sheppard, Shortridge, Steiwer, Thomas of Idaho, Townsend, Walcott, Waterman, and Watson.

Nays, 42: Messrs. Bingham, Black, Blaine, Blease, Connally, Couzens, Dill, Fletcher, George, Glass, Glenn, Greene, Hale, Harris, Harrison, Hawes, Hebert, Heflin, Johnson, Keyes, La Follette, McKellar, Metcalf, Moses, Norris, Nye, Overman, Robsion of Kentucky, Schall, Simmons, Smoot, Steck, Stephens, Swanson, Thomas of Oklahoma, Trammell, Tydings, Vandenberg, Wagner, Walsh of Massachusetts, Walsh of Montana, and Wheeler.

Not voting, 17: Messrs. Ashurst, Barkley, Brock, Caraway, Copeland, Dale, Deneen, Gillett, Gould, King, McMaster, Pine, Reed, Robinson of Arkansas, Shipstead, Smith, and Sullivan.

So Mr. ODDIE's amendment, as amended, to the amendment made as in Committee of the Whole, was rejected.

Mr. HARRISON. Mr. President, last evening a very important amendment was adopted on laces, and when the vote was taken there were only 46 Senators voting. While I did not vote in the affirmative, and ordinarily, under the rules, would not have a right to ask that the vote be reconsidered; nevertheless, I ask unanimous consent that the vote by which the amendment was adopted be reconsidered and another vote taken.

Mr. HEBERT. Mr. President, I reserve the right to object.

Mr. HARRISON. The Senator reserves the right to object. Does he object?

The VICE PRESIDENT. Is there objection to the request of the Senator from Mississippi?

Mr. HEBERT. I object.

Mr. GEORGE. Mr. President, in view of the objection to the reconsideration of the vote taken last evening in regard to laces, I desire to place in the RECORD some facts received from the Tariff Commission.

Last night it was stated by the Senator from Rhode Island [Mr. HEBERT] in urging his amendment that the ad valorem rate on laces would be increased from 90 per cent to 127 per cent. When the hearing was had before the Ways and Means Committee of the House those who appeared in behalf of this higher rate offered to the committee a number of samples of laces. Using those samples as a basis, the Tariff Commission estimated the increase in the rate of duty as then proposed and as proposed last night by the Senator from Rhode Island. In other words, the amendment proposed by the Senator from Rhode Island last night was exactly the amendment that was urged before the Ways and Means Committee of the House.

The analysis furnished by the Tariff Commission of the eight samples which are representative of the articles covered in this particular paragraph 1529 (a) is as follows:

Sample No. 1: Width of lace, two-thirds of 1 inch; foreign value $0.0054; present ad valorem, the ad valorem fixed in the bill, 90 per cent. Rate per yard upon this sample is 1 cent per square yard; equivalent ad valorem 185 per cent, or a total duty of 275 per cent ad valorem upon this particular exhibit.

I shall give the totals rather than the details, but I will place the table in the RECORD later.

The second sample of lace, 1 inch wide, carries a duty of 214 per cent ad valorem; the third sample, 229 per cent; the fourth sample, 149 per cent; the fifth sample, 173 per cent; the sixth sample, 180 per cent; the seventh sample, 160 per cent; sample No. 7a—there being two samples numbered 7—148 per cent; sample No. 8, lace 3 inches wide, foreign value $0.0437, total duty, 159 per cent ad valorem.

So, Mr. President, the average ad valorem upon the laces covered by the amendment adopted by the Senate last night is 172.32 per cent. In other words, a dollar's worth of lace purchased abroad before the amendment was adopted would now cost the purchaser, figuring the additional duty only, $2.73 plus. The ad valorem duty is 172 per cent plus upon the laces coming in under paragraph 1529 (a). I invite the attention of the Senate to the fact that a large part of the domestic consumption is imported and the duty must be paid.

The amendment also covers bobbin nettings. The increases upon these range from 107 per cent ad valorem to 162 per cent ad valorem. The average ad valorem rate upon these articles is 126.33 per cent.

Mr. President, inasmuch as this memorandum has been prepared by the Tariff Commission, and inasmuch as the amendment offered by the Senator is set out in the memorandum, together with the tables and explanations of the tables, I ask permission to have it inserted in the RECORD.

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

The matter referred to is as follows:

The duty on the laces and nets and nettings comprised in paragraph 1529 (a) of the proposed act is 90 per cent ad valorem. This is stated on page 223, line 14.

Mr. HEBERT's amendment is as follows:

"On page 223, after line 14, insert the following:

"'(b) In addition to the foregoing, there shall be paid the following duties:

"'(1) On lace, 3 inches or less in width, and on laces suitable for conversion into laces 3 inches or less in width, one-half of 1 cent per yard for each one-half inch or fraction thereof, in width;

"'(2) On nets and netting, having 50 holes or less per square inch, three-fourths of 1 cent per square yard; having more than 50, but not more than 100 holes per square inch, 1¼ cents per square yard; having more than 100, but not more than 150 holes per square inch, 1⅞ cents per square yard; having more than 150, but not more than 200 holes per square inch, 2½ cents per square yard; having more than 200, but not more than 250 holes per square inch, 3¾ cents per square yard; having more than 250, but not more than 300 holes per square inch, 5 cents per square yard; having more than 300, but not more than 350 holes per square inch, 6¼ cents per square yard; having more than 350, but not more than 400 holes per square inch, 7½ cents per square yard; having more than 400, but not more than 450 holes per square inch, 8¾ cents per square yard; having more than 450 holes per square inch, 10 cents per square yard.'"

Mr. H. A. Philips, president of the American Lace Manufacturers' Association, presented a selection of specimens of lace in connection with his statement and brief filed with the Ways and Means Committee. Nine of the seventeen specimens submitted were of 3 inches in width, or under, and the specific rates advocated in Senator HEBERT'S amendment have been applied to the quoted foreign price of those specimens with the following results:

Exhibit No.—	Width, inches	Foreign value per yard	Ad valorem duty per cent	Additional duty on laces up to 3 inches in width according to Senator HEBERT'S amendment		Total duty
				Rate per yard	Equivalent ad valorem	
				Cent	*Per cent*	
1	⅜	$0.0054	90	1	185	[1] 275
2	1	.0081	90	1	124	214
3	1⅛	.0108	90	1½	139	229
4	1	.0169	90	1	59	149
5	1	.0121	90	1	83	173
6	¾	.0111	90	1	90	180
7	⅞	.0142	90	1	70	160
7a	⅞	.0174	90	1	58	[2] 148
8	3	.0437	90	3	69	159
Average specific and total duty		.1397		11½	82.32	172.32

[1] High. [2] Low.

Five samples of bobbinet were submitted, three of which were of a style which is not manufactured in the United States. Two specimens, one cotton and one silk, would hardly be sufficient to establish a rate; the samples, therefore, 10 in number, 6 cotton and 4 silk, obtained in the United Kingdom, the principal competing country, in investigation No. 32, have been taken as the basis for the application of the specific rates advocated. Foreign prices were not obtainable, the rates, therefore, have been applied to the dutiable values as fixed by the office of the general appraiser at the port of New York. The results are shown below:

Exhibit No.—	Hole count	Dutiable value [1]	Ad valorem rate	Additional duty on bobbinet according to Senator HEBERT'S amendment		Total
				Rate per square yard	Equivalent ad valorem	
			Per cent	*Cents*	*Per cent*	*Per cent*
235 cotton	84	$0.0728	90	1¼	17	[2] 107
242 cotton	133	.0863	90	1⅞	22	112
244 cotton	180	.1025	90	2½	24	114
246 cotton	256	.0989	90	5	51	141
245 cotton	285	.1056	90	5	47	137
247 cotton	410	.1214	90	8¾	72	[3] 162
248 silk	285	.2290	90	5	22	112
249 silk	352	.2110	90	7½	36	126
250 silk	369	.2351	90	7½	32	122
251 silk	482	.2339	90	10	43	133
		1.4965		5.4375	36.33	126.33

[1] Per square yard. [2] Low. [3] High.

Mr. GEORGE. Mr. President, I express regret that the Senator has offered objection to a reconsideration of the vote by which the amendment was agreed to.

Mr. WALSH of Montana. Mr. President——

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

Mr. GEORGE. I yield.

Mr. WALSH of Montana. I dare say, Mr. President, in the light of the representation made last night in behalf of the amendment offered by the Senator from Rhode Island that the increased duty upon these articles was from 90 per cent to 127½ per cent, and the information now given to the Senate by the Senator from Georgia coming from the Tariff Commission, it would seem as though the Senator from Rhode Island would, in the interest of a fair disposition of this question, withdraw his objection to the request for unanimous consent. I inquire of him whether he is prepared to do so?

Mr. HEBERT. Mr. President, I am not prepared to admit that there will be any such ad valorem duty upon laces imported into this country as suggested by the Senator from Georgia.

Mr. WALSH of Montana. I do not care to enter into a controversy with the Senator with respect to that, but, of course, should the matter be opened up the Senator from Rhode Island would have an opportunity to maintain the position he took last night that the only increase was 127½ per cent; but now, that this additional information is available to us to-day, I think, under the circumstances, the Senator would be under the strongest kind of impulsion to allow the question to be reopened.

Mr. COUZENS. Mr. President——

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

Mr. WALSH of Montana. I yield.

Mr. COUZENS. This question will be in conference, will it not; and so long as it will be in conference I object. We will never get through the tariff bill if every controverted item is going to be reopened.

Mr. WALSH of Montana. Mr. President, I am addressing myself to the Senator from Rhode Island. I observe that immediately after the vote on laces last night he remarked:

> Mr. President, I desire, at the request of another Senator, to enter a motion to reconsider the vote whereby the Senate concurred in the amendment made in Committee of the Whole to paragraph 1530, the vote rejecting the amendment proposed by the Senator from Nevada [Mr. ODDIE] as a substitute therefor, relating to hides.

Will the Senator from Rhode Island advise us who was the Senator upon whose request he made the motion?

Mr. HEBERT. Yes; I made the motion at the request of the Senator from Nevada [Mr. ODDIE], who himself could not make it.

The PRESIDING OFFICER. Schedule 1 is open to amendment.

Mr. GOFF. I offer an amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 2, line 25, it is proposed to insert the following: "arsenious acid or white arsenic, either crude or refined, 2 cents per pound; sulphide and other arsenic salts and compounds, not specifically provided for, containing 10 per cent or more of arsenic determined as arsenious acid or white arsenic, 2 cents per pound of arsenious acid or white arsenic contained therein."

On page 259, strike out paragraphs 1613 and 1614.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from West Virginia. The Senator from West Virginia is recognized for 10 minutes.

WHITE ARSENIC

Mr. GOFF. Mr. President, arsenic is the trade name for white arsenic, or arsenious acid—arsenic trioxide. It is a product of various manufacturing processes, starting from raw arsenical ores until it reaches the final stage of refined white arsenic. This product is pure white, 99 per cent or more pure, and for some uses has to have a certain degree of solubility in nitric acid.

The annual consumption in the United States is around 24,000 tons. It is used largely in arsenical insecticides, glass making, weed killers, cattle dips, and small amounts in medicine and for various other purposes.

The first reported production of white arsenic in the United States was 272 tons in 1901, but in 1904 only 33 tons were produced. Imports of arsenic during these years ranged from 3,000 to 4,000 tons annually, but as the use of arsenic increased more of it was furnished by domestic producers until in 1922 the United States furnished 90.3 per cent of the total consumed. Since 1923 imports of foreign arsenic have increased, and at the present time, and for some time past, 50 per cent of the total arsenic consumed in this country is imported duty free, notwithstanding there are ample supples of arsenical ores in the United States to take care of all its needs.

Domestic production is now supplied by the product of the smelting companies obtained from arsenic contained in the copper, lead, and zinc ores smelted by them, but commencing in 1921, when there was a large demand for arsenic and the price had increased so that it could be produced at a profit, a number of independent companies commenced its production, and the basis of a large industry was established. This continued until 1925, when largely increased imports of foreign arsenic lowered the price to a point where independent producers could not operate profitably, and all of them within the next year or two ceased operations, leaving the field entirely in the hands of three domestic smelting companies, who are producing about half of the total consumed, and to foreign producers, who are importing the balance free of duty. Being able to produce cheaper than in this country, control of the market is entirely in the hands of the foreign producers.

The cost of production in foreign countries is difficult to determine, for no figures are available from any of the Government departments. With peon labor in Mexico at $1 and $2 a day and with labor in this country $5 and $6 a day, with plant-construction costs much lower in foreign countries, with inland transportation and ocean freights much lower, it is evident that the cost of producing arsenic must be much less. This fact is proven by the large imports of foreign arsenic into the United States when the price is 3 cents a pound or less. These are not intermittent, distressed lots that have to be sold but steady importations month after month, indicating that it must be profitable to the foreign producers or they would not continue their shipments to the United States. It is safe, therefore, to fix a price of considerably less than 3 cents for the cost of manufacturing and laying down foreign arsenic at United States ports of entry.

White arsenic is used largely in the manufacture of glass, paints, arsenical insecticides and fungicides, weed killers, and smaller amounts in other industries. There is consumed annually in the United States about 23,000 tons, approximately one-half of which is imported free of duty. In 1927 and 1928 the following amounts were imported from the countries named:

	1927	1928
	Tons	*Tons*
Mexico	9,374	8,136
Canada	1,847	1,650
Japan	1,080	1,260
Germany	17	60
Belgium	198	8
Other countries	17	37
Total	12,533	11,151
United States production	11,560	11,834

Imports during the first five months of 1929 amounted to 5,330 tons, compared with 4,832 tons for the corresponding period of 1928.

No detailed cost figures were presented to the Ways and Means Committee, and the Jardine Mining Co. now offers the following statement of costs based on the production of more than 7,000,000 pounds of white arsenic at its plant at Jardine, Mont.:

Costs per pound of producing white arsenic

Proportion of—	Cents
Mining costs	2.576
Milling costs	.637
Overhead costs	1.173
Labor in arsenic plant	1.072
Supplies	1.165
Trucking arsenic to railroad	.143
Freight to destination	.687
Cash discount and other charges	.033
Marketing costs	.110
Total costs	7.595

Cost figures furnished by other producers are as follows:

	Cents per pound
Anaconda Copper Mining Co., Anaconda, Mont	6.351
Toulon Arsenic Co., Toulon, Nev	7.260
Keystone Arsenic Co., Keystone, S. Dak	6.659

A vice president of the American Smelting & Refining Co. in 1922 stated that it is not until the price reaches 6 or 7 cents a pound that arsenic can be recovered at a profit, but their brief recently filed with the Ways and Means Committee states there is a reasonable profit in its production at approximately the present price of arsenic (4 cents a pound). This discrepancy is due to the custom of arsenic producers of charging a large proportion of their arsenic costs, such as mining, milling, and overhead to other products.

Comparing peon and coolie wages with wages here, inland and ocean freight rates of foreign producers with railway freight rates in the United States, and construction and other foreign costs with ours, it is evident that foreign arsenic costs must be much less than in the United States.

As white arsenic is imported in large quantity when the price here is less than 3 cents a pound, foreign costs must be much below that figure, and it is safe to assume that it can be laid down in this country at probably 2 cents a pound.

Commencing in 1901, production of arsenic in the United States increased until, in 1922, 90.3 per cent of the total consumed was from domestic production. Since 1923 imports of foreign arsenic have increased, and now only 50 per cent is produced here. With plenty of arsenical ores in the United States, there is no excuse for this condition, but it can not be changed in face of competition with cheap foreign labor and other costs unless protection is granted.

The gain to labor and industry by producing here the 50 per cent that is now imported would be in excess of $1,000,000, and in the production of the arsenic there would be a gain to the country in gold, silver, and other metals of at least $10,000,000, so that the total gain would be $11,000,000, which means employment to five or six thousand men, and with dependents would support 25,000 people. A large portion of this gain would reach the farmer, either for his products or directly paid to him for work performed for the mining companies.

There are many deposits of arsenical ores in this country capable of producing sufficient white arsenic for all present and future needs. The United States Geological Survey lists 19 States in which they occur, and production has already been made from 9 of them, but as a result of importations of low-priced foreign arsenic all independent producers have been forced to close their plants, and the industry is practically dead.

In 1925 the arsenic plant of the American Smelting & Refining Co. at San Luis Potosi, Mexico, was put in operation, and importations from that country increased from 1,900 tons a year to 9,374 tons in 1927, 8,136 tons in 1928, and for the first five months of 1929 at the rate of nearly 10,000 tons a year. In 1927 Mexico furnished 75 per cent of all the arsenic imported, and in 1928, 73 per cent, nearly all of which came from the plant of the American Smelting & Refining Co. It is plain why this company has been so active in opposing a duty on white arsenic.

While a duty of 2 cents a pound would not build up the arsenic industry as should be done, it would tend to stimulate production by assuring domestic producers an outlet for their arsenic at not less than 4 cents, and would protect them from the dumping of foreign arsenic on the American market. In 1926, when the market was demoralized and the price 2.9 cents a pound, Mexican arsenic continued to be imported and sold to the exclusion of domestic production.

Conditions in the industry have entirely changed since the tariff act of 1922. Consumption of white arsenic in this country has more than doubled, and the increased amount has been supplied by foreign producers, whose imports have increased 1,000 per cent. Production costs have remained stationary while prices have declined from 7½ cents a pound in 1922 to 2.9 cents in 1926, and an average price for the past three years of 3½ cents.

It is vitally important to the United States that its large arsenical deposits be developed and made available to meet present and future demand. While there is sufficient arsenic to meet the present demand, it is from a limited and precarious source, and any suspension or curtailment of operations by one or two of the few producing companies would cause a scarcity of arsenic that would send the price to high levels. This has happened in the past and will surely happen again if conditions are not changed.

With the imposition of a 2-cent duty the price of arsenic would be raised little, if any, and there should not be any increased cost to agriculturists. In asking for a 2-cent duty our purpose is not to raise the price but to prevent the dumping and selling of arsenic in this country at prices that preclude the sale of domestic arsenic.

Mr. President, it has been shown in the briefs and testimony before the Ways and Means Committee that the cost of producing arsenic in this country is from 6.351 cents to 7.595 cents per pound. This is further borne out by the statement of Mr. Hamilton Brush, vice president of the American Smelting & Refining Co., who in 1922, before his company was shipping arsenic from its Mexican plant to the United States, stated that "it is not until the price gets up to 6 or 7 cents that any arsenic can be recovered at a profit, and it is only after the price is up to 10 cents that the smelters can commence to make money."

The result of the large increase in importations has been to reduce the price of domestic arsenic from 8 cents a pound in 1922 to less than 3 cents in 1926 with an average price for the past several years of 3½ cents a pound; the present price is 4 cents a pound in carload lots f. o. b. New York. The arsenic industry in the United States has been practically destroyed and millions of dollars of wealth in the form of arsenic, gold, and other metals will remain unavailable in the ground.

Just what this amount of wealth would amount to it is difficult to estimate, but assuming that the 11,000 tons of arsenic now imported annually were produced in the United States, at the present price of $80 a ton, would amount to $880,000. As it could not be produced profitably at this price the amount of money that would be spent in this country would exceed $1,000,000 annually. The production of gold, silver, lead and other metals that would be associated with this arsenic in ores, from the best general estimate that can be made, would amount to $10,000,000. The United States, therefore, is losing more than $11,000,000 annually through the importation of foreign arsenic.

This $11,000,000 may roughly be divided as follows:

	Per cent
For labor	60
For supplies	30
For freight and other costs	10

The 60 per cent that would go to labor amounts to $6,600,000 and means the employment of 4,000 men; and with dependents would furnish a livelihood for 20,000 people. The 30 per cent for supplies would also mostly go to labor employed in other industries.

A large part of this gain by producing all arsenic in this country would ultimately reach the farmer, either for his produce or directly paid to him for work performed for the mining companies. Nearly all mines are contiguous to farming districts, or farming springs up as the result of mining operations, so that a large part of labor is drawn from the farmers of the surrounding country. Many thousands of farmers and their sons are employed in the mining industry, and wages paid them furnish the greater part of their income, and many farm mortgages are paid from this source. In addition to the benefits recited above a considerable part of the 30 per cent expended for supplies goes to the farmer for hay, for boarding-house supplies, for team hire, and so forth.

In an effort to remedy the situation now engulfing the arsenic industry producers made application to the Ways and Means Committee for a duty of 4 cents a pound. They appeared before the committee and filed a number of briefs in support of their application. It is difficult to forecast the precise effect on the price of arsenic this would have, but assuming that the cost of foreign-produced arsenic f. o. b. New York is 2½ cents a pound, if an import duty of 4 cents were placed on it, the foreign producer would have to get only 6½ cents a pound for his product, so it is apparent that the statement that a 4-cent duty would immediately raise the price to 8 cents is inaccurate. If Congress thought that 4 cents was too high a duty and should make the amount 3 cents a pound, the foreigner would have to sell his arsenic in the United States at 5½ cents a pound and that would be the limit the domestic producer could charge without having the foreigner undersell him, so that with arsenic at the present price of 4 cents f. o. b. New York, the best estimate that can be made is that it would sell around 6 cents a pound in case a duty is imposed, an increase of 2 cents a pound.

If the industry were once given a chance to develop and the producers were assured that the price would not drop to practically nothing, as it did in 1926, they would feel like working toward larger production and cheaper costs. This would not only lower prices but would have the effect of stabilizing the arsenic market and giving domestic production sufficient elasticity so that in periods of extreme demand, such as large boll-weevil years, the price would not go to the extreme of 16 or 18 cents as it has done in the past.

While insecticide manufacturers and other consumers naturally like to get low prices on materials they use, in the case of arsenic to us it appears to be a short-sighted policy, for they are assisting in the restriction of production in this country and continuing the present condition of having a very small and precarious source of arsenic supply. Curtailment of smelting activity or putting out of business of one or two of the plants now producing arsenic as a by-product would cut off 50 per cent of the arsenic supply, which coming at almost any time would be bad, but coming in a year when demand was great would work havoc with all industries using it.

Using this figure of increased cost, the total additional cost of all the arsenic consumed annually in the United States would be only $960,000, compared with two and one-quarter billion dollars, the total value of the products of the industries using arsenic. We have already shown that a duty on arsenic would benefit the United States at least $11,000,000 annually, and furnish a living for 20,000 people. We doubt that there is another article on the dutiable tariff list whose cost to the consuming public on account of a duty would be as small a proportion of the total benefits derived from the duty.

The amount of arsenic used in the manufacture of agricultural insecticides is difficult to determine. There have been estimates made by writers and by different departments of Government. As near as we can figure from the various estimates made, between 50 and 60 per cent of the arsenic consumed in the United States annually is manufactured into the agricultural insecticides—calcium arsenate, lead arsenate, Paris green, Bordeaux and special mixtures, baits, and cattle dips. Taking 55 per cent as the average annual consumption of white arsenic in agricultural insecticides for the past six years and figuring a duty would have the effect of ultimately raising the price of arsenic 2 cents a pound, it would mean that the total increase of the value of arsenic consumed by agriculturists would be slightly over $500,000 annually. The value of the cotton and apple crops alone in 1927 was approximately $2,000,000,000, so that the increased cost for insecticides to these industries would amount to only 0.025 of 1 per cent of the value of their farm products. Or, putting it in another way, for every dollar of output by the cotton and fruit producers the increased production cost resulting from a duty would be 0.025 of a cent.

While one of the most important needs of the farming industry is arsenical insecticides, its cost is so small compared with the value of their products and so small a part of their production costs that the amount of money involved in the slight increase in price of duty-protected arsenic falls into insignificance when compared with the tremendous gains of agriculture through the increased use of them. The estimated loss to the cotton growers for 1928 due to the boll weevil, a large part of which could have been avoided through the use of insecticides, is estimated to have been $200,000,000. The crop reporting bureau of the Department of Agriculture states that the principal cause of damage in 1928 was the boll weevil, the reported loss averaging 14.1 per cent in the Cotton Belt proper. It will be seen that it is not the cost of insecticides that has caused this large loss to the cotton growers, but the failure on their part to use them.

Continuing the discussion of the white arsenic situation, I beg to submit the following summary of facts supporting the application of arsenic producers for an import duty of 2 cents a pound:

From 23,000 to 24,000 tons are consumed annually in the United States.

Fifty per cent of it is imported from foreign countries, duty free.

Only 50 per cent of it is manufactured in the United States.

There are large quantities of arsenical ores in this country capable of supplying present and future needs.

Wages here are four or five times as high as in Japan and Mexico.

Foreign freights and ocean rates are much lower than inland railway rates in the United States.

Therefore, it is apparent that foreign production costs are below those of the United States.

Foreign costs are not obtainable, and those opposing a duty have not voluntarily come forward to supply them.

Since 1922 consumption of white arsenic in the United States has more than doubled.

In 1922 the United States manufactured 90.3 per cent of amount consumed. In 1928 it manufactured only 51.5 per cent.

During first six months of this year United States produced 5,290 tons refined arsenic; there were imported 6,936 tons, 56.7 per cent.

As a result of large importations of coolie and peon produced arsenic, the arsenic industry in this country is at a standstill, and a precarious supply of this vitally important commodity is obtained only as a by-product of American and foreign smelting plants.

By supplanting foreign arsenic with domestic arsenic the United States would gain in labor and supplies and in gold, silver, and other metal production, more than $10,000,000 annually and employment for 5,000 men.

A duty of 2 cents a pound would to a considerable extent protect domestic producers and increase production, and should add little, if any, to price paid by consumers.

The above facts set forth clearly that arsenic producers are entitled to a duty on their product, and we ask a comparison of the conditions existing in the industry with those of other industries whose products have been granted a duty.

I therefore request, Mr. President, and trust that the Senate will act favorably upon this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment submitted by the Senator from West Virginia.

Mr. WALSH of Montana. I ask that there may be incorporated in the RECORD two letters on this subject from the producers of this commodity in my State.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JARDINE MINING CO.,
Jardine, Mont., November 18, 1929.

Hon. T. J. WALSH,
United States Senate, Washington, D. C.

DEAR SENATOR: I am sorry I have not had opportunity to talk more with you about a tariff duty on arsenic, but was unfortunate in not finding you in the several times I called at your office.

I appeared before the Ways and Means Committee in January and later filed a brief with the Senate Finance Committee, but no action was taken by either to put white arsenic on the dutiable list. A good many West Virginia people are interested in its production and the president of our company lives at Wheeling. At their request, Senator GOFF introduced an amendment to the tariff bill asking a duty of 2 cents a pound, which I suppose will be taken up under Schedule 16, free list.

The printed proceedings of the two committees contain all arsenic briefs and statements presented to them. To give you additional information I am inclosing some typewritten statements and the Bureau of Mines report on arsenic for the year 1928.

Nobody appeared before the committees to oppose the duty and the only open opposition came from the American Smelting & Refining Co., a New Jersey corporation, and the American Metal Co., a New York corporation, both owning mines and smelting plants in Mexico and producing white arsenic there. The former company produces practically all of the arsenic imported from Mexico and these importations comprise about 75 per cent of all arsenic imported into the United States, the balance coming from Japan, Belgium, Germany, and Canada.

The American Smelting & Refining Co. filed a brief with the Ways and Means Committee and incorporated in it were briefs from a number of arsenic consumers, all customers of theirs. One of them is the Curtin-Howe Corporation of New York making an arsenical wood preservative for use on telephone and telegraph poles. Curtin and Howe are engineers for the Western Union Telegraph Co. and the corporation is either a subsidiary of the Western Union or is owned by its officials. I was informed that both the Western Union Co. and the American Telephone & Telegraph Co. have been opposing a duty on arsenic, but not openly.

With such a large amount imported by the American Smelting & Refining Co. from its Mexican plant, its interest in having white arsenic retained on the free list is apparent and explains its activity in getting the support of consumers in this country. They had Mr. James L. Gerry in Washington working in their behalf, but whether he is a permanent employee of the American Smelting & Refining Co. or there only temporarily as a lobbyist, I do not know.

The whole matter resolves itself into another case of domestic corporations manufacturing in cheap-labor foreign countries and fighting for free entry into the United States of their products. There is plenty of arsenical ore in the United States and the industry of producing arsenic was pretty well advanced until 1925 when the large Mexican plant of the American Smelting & Refining Co. commenced its production and shipped its product into the United States duty free. Being low-cost producers, they can undersell domestic producers and from 1925 until the present time they have been importing large quantities regardless of market conditions.

In 1926, notwithstanding the small demand for white arsenic there were imported from Mexico 7,703 tons, and in 1927 when there had been practically no change in market conditions, 12,517 tons were imported from Mexico. This arsenic was brought in and sold to the exclusion of domestic production with the result that all domestic producers, except three smelting companies, were put out of business. This condition still exists and the American Smelting & Refining Co. has absolute control of the arsenic industry and the price of arsenic.

At the present time Utah and Montana are the chief sources of arsenic in the United States, Montana being the largest producer. All of it is now coming from the Anaconda Smelter and while they have not been actively supporting our application, they have cooperated with us. During the years just mentioned both the Anaconda Co. and the Jardine Mining Co. were forced to carry large stocks of arsenic as it was almost impossible to sell at any price. At one time Anaconda had in its warehouses 3,400 tons, and I was informed by one of its officials that at the prices then prevailing they did not get enough for it to even pay cost of operating their arsenic plant.

The Jardine mine closed in 1926 on account of the arsenic situation, throwing out of employment 150 men and causing a loss to Montana in wages and supplies of $400,000 annually and a loss to the United States of gold production of $300,000 annually. The amount invested by this company in its arsenic plant alone is $150,000.

Like many other States, Montana has a number of mining districts whose ores carry arsenic combined with gold or other metals. Before the large influx of foreign arsenic commenced a number of Montana mines were being financed and opened for the production of arsenic, among them being the Lee Mountain at Rimini and the Mina mine at Wickes. But due to the slump in arsenic prices all efforts were discontinued. With a fair price for arsenic these and other mines would be developed into producers, adding largely to the wealth of Montana through money expended for labor and supplies, as well as adding largely to the production of gold, silver, lead, and other metals.

A policy of wisdom would be to give every encouragement to the development of the large arsenical resources of this country to insure an adequate, permanent, and cheap supply of this most important product. At the present time the United States is dependent entirely on by-product arsenic of three domestic smelting companies for 50 per cent of its arsenic requirements, and on the by-product of a few foreign smelting plants that ship into this country free of duty 50 per cent of our requirements. Curtailment or closing down of two or three of them would make such a scarcity of arsenic that the loss to agriculture in this country would amount to a tremendous sum, for it would take several years for an adequate production of arsenic to be built up by independent companies.

It has been the custom of arsenic producers to figure cost of operation of arsenic plants only and not include anything for mining, milling, overhead, and other proper charges. This explains the apparent discrepancy in some of the statements as to costs. The 2-cent duty is asked as a protection against foreign producers importing and selling their product in this country to the exclusion of domestic arsenic during periods of adverse market conditions, such as have existed since 1926.

I think the briefs and other information furnished you will give a clear insight into the arsenic situation and show that in order to build up the industry in this country and make available the large supply of arsenical ores that nature has provided us it is necessary to give encouragement by adequate tariff protection. In the face of large importations of cheap arsenic from foreign countries there is no inducement for owners of arsenical properties in this country to expend large sums for development and equipment, knowing that at any time the bottom may be knocked out of the market by foreign producers and make their investments worthless.

Speaking for this company and other producers of arsenic in Montana and other States, I ask that you kindly assist us when the matter comes up in the Senate. If any question arises regarding arsenic, or if any arguments are presented against a duty that need answering, I will be glad to reply by telegraph to any inquiry you may send.

Yours very truly,

H. C. BACORN.

JARDINE MINING CO.,
Jardine, Mont., January 30, 1930.

Hon. T. J. WALSH,
United States Senate, Washington, D. C.

DEAR SENATOR: I thank you for your letter of January 8 on the matter of a duty on white arsenic, about which I wrote you.

That the American smelters producing arsenic as a by-product might be benefited by a duty should cut no figure, as it is only incidental to the arsenic industry. It is true that at the present time practically all white arsenic is coming from smelting plants, for independent producers have been put out of business, and unfortunately 50 per cent of it is coming from foreign plants and it is that product with which domestic producers can not compete.

Due to overproduction of copper there appears to be an understanding among producers to keep down production and the curtailment seems to be about 50 per cent. In Butte the other day the opinion was that curtailment was 50 per cent or 60 per cent. As most of the arsenic comes from copper ores the curtailment of 50 per cent means a like curtailment of 50 per cent in the production of arsenic, and while it will not be felt in the market for six months or a year, if the curtailment continues there will be a scarcity of arsenic and the price will advance sharply as it has on a number of occasions in the past. With a duty on arsenic this would not happen for the industry would be built up by many small producers and increased production by them would make up the shortage in smelter production.

The present curtailment is an excellent illustration of what may happen at any time to shut off the supply of arsenic, so vitally important to cotton and fruit growers of the country. Destruction of one or two arsenic plants, insurrection in Mexico, changes in metallurgical processes are some of the other menaces to the country's supply of arsenic. You are familiar with the large losses to both cotton and fruit growers and other agriculturists even when the arsenical insecticides are available, and you can imagine the tremendous loss that would occur if arsenicals were not available, particularly to the small agriculturist, who would not be able to buy insecticides at the high prices that would prevail.

You may reply that if such is the case the scarcity of arsenic will result in high prices, and there is no need for a duty on it. That might

be true temporarily, but as soon as supply and demand again became normal the same conditions will exist as at present. No one is going to invest money in the development of arsenical mines and the construction of arsenic plants under these conditions, and until the domestic industry is firmly established the manufacturer of arsenical insecticides and the agriculturist consumer are on an insecure footing and may slip up at any time.

Supporting a duty on white arsenic would not be playing into the hands of a smelter trust; on the contrary, it would be crushing a monopoly of the arsenic business held by a few foreign smelting plants.

Yours very truly,

H. C. BACORN.

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). The Senator from Kentucky is recognized for 10 minutes.

Mr. BARKLEY. Mr. President, the amendment which has been offered by the Senator from West Virginia [Mr. GOFF], in my judgment, ought not to be agreed to.

There has been a gradual increase in the domestic production of arsenious acid or white arsenic during the past seven or eight years, from 6,000 tons in 1919 to more than 10,000 tons in 1927. The importations have fluctuated between twenty and twenty-two million pounds.

I notice that the Tariff Summary reports always give the figures of domestic production in tons, but when it comes to the imports they give them in pounds. I do not know whether it is because pounds look larger than tons, or whether it is in order to make it necessary for us to divide the number of pounds by 2,000 or 2,240; but certainly it is an inconvenient arrangement to anybody who has to make quick and ready reference to the figures.

There has been no serious increase in the importations of arsenious acid, but there has been a gradual increase in the domestic production.

In 1923 the domestic production was 12,357 tons, while the importations for the same year were more than 10,000 tons. The proportion of imports to our domestic production has decreased during the past seven years.

Arsenious acid is used in the manufacture of insecticides, such as calcium and lead arsenic and Paris green, used against the cotton-boll weevil and fruit-tree pests. I might say also that Paris green made out of arsenious acid is now used for killing insects that affect the tobacco plant in all the States where tobacco is raised. On the recommendation of the Department of Agriculture it is used for killing the tobacco worm, so as to make it unnecessary for the farmer to kill the worm with his fingers. It is also used for the purpose of killing weeds in yards and around barnyards and on railroad rights of way throughout the United States. It is also used in connection with the glass industry and for some other purposes.

In view of the fact that this article is used for this necessary work—for the eradication of undesirable insects, for saving the labor of men in agriculture, both in that respect and in respect to the elimination of undesirable weed growths—and in view of the gradual increase in the domestic production without any corresponding increase in importations, it seems to me that this tariff is unjustified; and I hope the Senate committee amendment will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia [Mr. GOFF].

On a division, the amendment was agreed to.

Mr. CAPPER. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 33, it is proposed to strike out all of paragraph 84 and to insert:

PAR. 84. Starch, by whatever name known, and for whatever use intended, 2½ cents per pound.

Mr. CAPPER. Mr. President——

The PRESIDING OFFICER. The Senator from Kansas is recognized for 10 minutes.

Mr. CAPPER. Mr. President, the tariff on starch at the present time includes the duty of 1¾ cents a pound on potato starch. The bill now before us increases this to 2½ cents a pound, and also places a tariff of 1½ cents a pound on corn and wheat starch; but it leaves tapioca, sago, and cassava, the imported starches, on the free list. They come in direct competition with our own starches, because they are interchangeable. My amendment would place a duty of 2½ cents on all starches.

The imports of tapioca, sago, and cassava, starches that are produced in Java, have increased from 54,000,000 pounds in 1921 to 180,000,000 pounds in 1929. These imports are steadily increasing and will continue to increase if we keep them on the free list. At least 70 per cent of these importations come in direct competition with our own American-produced starches.

Mr. President, these importations displace at least 6,000,000 bushels of American-grown corn. Wages in Java are about 25 cents a day, and the land on which these foreign starches are produced is worth about $25 an acre, as against wages in the United States of something like $2.50 a day, and land valued at anywhere from $100 to $150 an acre. The American corn grower and potato raiser should be protected against such unfair competition. This is farm relief of the most practical character.

Mr. President, much has been said during the debates on the tariff bill concerning the ineffectiveness of many of the rates on farm crops and particularly corn, on the theory that the rate is largely ineffective because our annual exports greatly exceed our imports.

It may be conceded that in many years the duty on corn is not fully effective, due to the pressure on domestic prices of the exportable surplus, which must be marketed in the world market at the world market price. Nevertheless, in some years the duty on corn is of material benefit in preventing undue price depressions, due to importations of cheap corn from Argentina, produced at a cost of production 27.4 cents per bushel cheaper than the cost of production in the United States. The American corn grower, therefore, needs an adequate duty on corn to protect his market from such price depressions.

The chief competition encountered by the American corn grower, however, is not from imported corn but from imported tropical starches, which displace cornstarch in the domestic market, and from imported blackstrap molasses, which displaces American corn for the production of industrial alcohol. The importation of blackstrap and the importation of tropical starches are sufficient in volume to displace approximately 41,000,000 bushels of corn, which could be used for the same purposes.

The competition in starch, Mr. President, is not so much between domestic cornstarch and imported cornstarch, but the main competition is between domestic cornstarch and imported tropical starches, consisting of tapioca, cassava, arrowroot, and sago starches. These are all starches which are directly competitive, one with the other, in the United States.

As to the competition of these imported tropical starches with domestic cornstarch there can hardly be any reasonable doubt. The Encyclopedia Britannica, which is an authority recognized in the courts, states the following with respect to tapioca:

Although this plant "manihot" or "manioc" is grown in tropical or subtropical locations, nevertheless starch, the only commercial commodity derived from manihot, is chemically identical with starch obtained from our domestic starch-producing plants. All these starches are chemically interchangeable and competitive.

In other words, the finished product is starch, whether it is made from tapioca, sago, or arrowroot produced in the Tropics, or whether it is made from corn or potatoes or wheat or rice produced in the United States.

Tapioca is imported in various forms, but the product is known commercially as starch, though it may be called by various terms. Again, the Eyclopedia Britannica states:

By reason of commercial customs the terms "tapioca," "tapioca flour," "tapioca starch," "cassava," "cassava starch," as well as "gaplek" and "gaplek meal" (the crude ground root of the cassava plant) have come in a sense to denote the starch produced by the manihot plant.

Mr. President, many people think of tapioca in terms of the round, starchy pellets which are used for pudding; but the fact is that the food uses of tapioca in the United States are minor as compared with the industrial use for starch purposes. It is estimated that more than 88 per cent of the total imports of tapioca in all forms is used for industrial purposes.

The claim of specialized uses for these tropical starches has been given a greatly exaggerated importance. My information indicates that approximately 70.61 per cent of the total imports of tapioca are competitive with domestic starch.

The importation of 176,468,000 pounds of tapioca, sago, and arrowroot starches in 1928 was sufficient in amount to displace over 6,000,000 bushels of American corn which otherwise might be utilized for the manufacture of cornstarch.

Mr. President, let us visualize what it would mean to the American corn growers to give them this additional outlet for their surplus corn. The net exports in 1928 were 25,236,637 bushels. Now, if we provide a market for 6,000,000 bushels of that surplus by utilizing it for the manufacture of starch, we have gotten rid of about 24 per cent of the surplus. If we pro-

vide an additional market for 35,000,000 bushels of corn by utilizing it for the manufacture of industrial alcohol in place of using imported blackstrap molasses, we have wiped out the entire exportable surplus and placed the domestic corn industry on a domestic basis, thereby tending to make the tariff fully effective on corn. With a tariff on corn of 25 cents per bushel, the benefits to the corn growers of the United States, which would accrue if this tariff were made fully effective, would be tremendous.

With these tropical starches on the free list, the American corn grower is placed in competition with the coolie labor in Java, where native labor is paid a mere pittance, ranging from 12 to 25 cents per day. I protest against a continuation of a tariff policy which forces the American corn farmer to pit his standard of living against such conditions of competition.

I earnestly hope, therefore, that the Senate will remedy this injustice to the American corn growers, the American potato growers, and other farmers producing the raw materials for the production of starch, and will approve my amendment placing a duty of 2½ cents per pound on tapioca, sago, and arrowroot starches.

Mr. President, the farm organizations unanimously appeal to the Congress for this duty, which would place all starches, domestic and foreign, on an equality and would result in a larger market for the farmers' corn. The duty on potato starch, 2½ cents, is not too high; in fact, it should be higher. At any rate, the duty on cornstarch, wheat starch, and all these imported substitute starches should be on the same basis with potato starch.

I ask your serious attention to an appeal from the American Farm Bureau Federation, the National Grange, and 22 other farm organization, requesting a reconsideration of the vote by which the duty on starch was defeated in Committee of the Whole. I have here a statement from the representatives of the National Dairy Union and the National Cooperative Milk Producers' Association, addressed to the Senate, also asking for reconsideration, in which they say:

The dairy interests of this country are seriously affected by the importation of foreign starches.

You introduced into the record a table which showed that 33.1 per cent of the tapioca, tapioca flour, and cassava used in the United States went into wood glues and 27.3 per cent into adhesive gums and dextrines.

Particularly with respect to wood glues do imports of tapioca, tapioca flour, and cassava compete with American-produced casein, and it is essential for the protection of dairy farmers that a rate of duty on the imported starches be fixed by the Congress that will prevent the shifting by makers of glue from certain grades of casein to these imported starches.

We urge favorable action on Senator CAPPER's amendment proposing a duty of 2½ cents on all these starches produced by the cheap labor of Java and other countries.

Mr. President, the communication from the American Farm Bureau Federation and the National Grange is as follows:

Hon. ARTHUR CAPPER,
Senate Office Building, Washington, D. C.

DEAR SENATOR CAPPER: We trust the Senate will reconsider the vote by which it refused to place a duty on imported starches. Imported starches such as those made from tapioca, tapioca flour, and cassava, produced most at this time in Java and known under the general name of Java starches, are directly competitive in our domestic markets with starches produced from our grain and other crops. The mere fact that starch may be produced in the form of tuber or in a tree in Java, whereas it is produced in grain crops here, does not remove the necessity for a protective duty on starch when manufactured.

When starch is manufactured from a tropical plant, it fills the same edible and industrial uses that grain starches seek to fill for the same use.

There is direct competition between our farmers who produce corn, wheat, rice, potatoes, and other starch-producing plants, and the inhabitants of the tropics or near tropics who, on wage scales of not to exceed 25 cents gold per day, are producing starch plants and having the manufactured product thereof imported into our country absolutely duty free under the present tariff law.

It is unfortunate that Congress in this session thus far has not remedied this situation. We ask the Congress to make all starches dutiable at the rate of 2½ cents per pound, as proposed in your amendment.

CHESTER GRAY,
Representing American Farm Bureau Federation.
FRED BRENCKMAN,
Representing the National Grange.

And approved by 22 other farm organizations.

Mr. President, I have here a telegram from the Farmers' National Grain Corporation in Chicago, which, I think it is well understood, is the national cooperative farm organization organized under the direction of the Federal Farm Board. I regard it as convincing evidence that the proposed duty on starch would be helpful to agriculture. They wire in these words:

CHICAGO, ILL., *March 5, 1930.*

Senator ARTHUR CAPPER,
Washington, D. C.:

Executive officers this corporation approve 2½-cent tariff on starches and 8 cents blackstrap molasses.

FARMERS' NATIONAL GRAIN CORPORATION.

Blackstrap molasses, of course, is not included in this amendment but will appear in a later schedule.

Mr. President, I hope the Senate will do justice to the corn and potato growers of the West by agreeing to the amendment for a 2½-cent duty on all starches, placing all starches on an equality. As I have said, it is the request of every farm organization in this country.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Allen	Frazier	La Follette	Smoot
Baird	George	McCulloch	Steck
Barkley	Glenn	McMaster	Steiwer
Bingham	Goff	McNary	Stephens
Black	Goldsborough	Metcalf	Swanson
Blaine	Grundy	Moses	Thomas, Idaho
Blease	Hale	Norbeck	Townsend
Borah	Harris	Norris	Trammell
Bratton	Harrison	Oddie	Vandenberg
Brookhart	Hatfield	Phipps	Walcott
Broussard	Hebert	Pine	Walsh, Mass.
Capper	Heflin	Pittman	Walsh, Mont.
Connally	Howell	Ransdell	Waterman
Copeland	Johnson	Robsion, Ky.	Watson
Dale	Jones	Schall	
Fess	Kean	Sheppard	
Fletcher	Keyes	Shortridge	

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

The question is on agreeing to the amendment offered by the Senator from Kansas [Mr. CAPPER].

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 10 minutes.

Mr. BARKLEY. This is the same amendment offered by the Senator from Kansas as in Committee of the Whole which was then defeated by an overwhelming vote. He has submitted no new facts with reference to it, and I suppose I can submit none in opposition to it. But inasmuch as this means that nobody is ever satisfied with a licking, and has to bring a matter up and rehash it every time an amendment is offered, it is not entirely out of place for me to repeat what I said when this amendment was up before.

I suppose all hopes we might have entertained of getting the bill passed through the Senate, or voted on, will go glimmering if we are to reconsider all the chicken-feed provisions in the bill from beginning to end.

The Senator from Kansas is seeking to raise the tariff on all kinds of starches from one-half to 2½ cents a pound, except potato starch, which already bears that rate in the bill. His amendment covers cornstarch, not because there is any need for a tariff on cornstarch, not because there are any importations of cornstarch, because there are none. We are producing in the United States more than a billion pounds of cornstarch every year; and we are exporting from the United States 236,000,000 pounds. In other words, we are producing more than a billion pounds of cornstarch, we are exporting to other nations 236,000,000 pounds of cornstarch, and we are importing into the United States 64 pounds a year. Yet, on that basis, we are asked to raise the tariff on cornstarch from 1½ to 2½ cents a pound.

What about tapioca? The real object is to prevent the importation of tapioca starch, in order to compel the American people to use some other kind of starch, on the ground that they are interchangeable. They are not interchangeable. Tapioca starch is used for purposes for which neither cornstarch nor potato starch is interchangeable in the United States. Seventy per cent of all the tapioca starch used in this country is used for purposes for which neither cornstarch nor potato starch is interchangeable.

What are those purposes? Ten per cent of the tapioca starch used in this country is used for food, for instance, in making tapioca puddings, and is used by bakers in certain processes of baking. Twenty-seven per cent of all the tapioca starch used in

this country is used in the manufacture of adhesive gums, for which neither potato nor corn starch is serviceable.

Anybody who has ever eaten a tapioca pudding, and then immediately afterwards has eaten a cornstarch pudding, will readily agree with me that there is more adhesive gum in a tapioca pudding than there is in a cornstarch pudding; therefore, it is easy to understand why cornstarch is not interchangeable with tapioca starch in the manufacture of adhesive gums. Yet 27 per cent of all the tapioca starch used in this country is used in the manufacture of adhesive gums.

We do not produce any of it at all. We do not produce tapioca starch in the United States, but the manufacturers of adhesive gums need it in order to produce their article. In order to make them attempt to use some other kind of starch, that is not serviceable for that purpose, the Senator from Kansas wants us to increase the tariff on tapioca starch from 1½ to 2½ cents a pound.

Thirty-three and one-third per cent of all the tapioca starch used in this country is used in the manufacture of glue, used very largely in the manufacture of furniture. We all understand that in the manufacture of furniture glue is a necessity, not a glue that will fasten the different parts of an article of furniture together long enough to sell it and give it to the consumer, but it must be a type of glue that will keep the article of furniture fastened together permanently, a type that is not subject to heat, a type that is not subject to atmospheric conditions, a type of glue that will fasten the parts of an article of furniture together as permanently as if they were nailed. That is the sort of glue into the manufacture of which tapioca starch goes.

Corn starch will not serve the purpose, potato starch will not do it, only tapioca starch will serve that purpose, and we produce none of it in the United States. Yet the Senator from Kansas desires to have us add this burden to the manufacture of furniture in the United States, not to protect tapioca starch produced here, because we do not produce any, but in order to try to compel the American consumers to use cornstarch, or some other sort of starch, instead of the starch which they have found necessary in the manufacture of these articles which consume 70 per cent of all the tapioca starch brought into the United States.

I ask, in all sincerity, whether this increase is justified. It can not be brought about as a measure of farm relief, because we are already producing more cornstarch than we can use in the United States, because we ship out 236,000,000 pounds a year, and bring in only 64 pounds. It certainly can not be advocated as a measure of farm relief. It certainly can not be advocated as a measure of protection to any home industry, because it will add to the burden of a home industry unjustifiably and indefensibly, and it will be passed on to the manufacturer of furniture and other articles. The burden will be passed on to the manufacturer of furniture and other articles manufactured out of this particular article, of which we produce none in this country.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kansas.

Mr. CAPPER. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. ROBSION of Kentucky (when his named was called). I have a pair with the Senator from Arizona [Mr. HAYDEN]. Therefore I withhold my vote.

Mr. THOMAS of Idaho (when his name was called). On this vote I have a pair with the junior Senator from Montana [Mr. WHEELER]. In his absence I withhold my vote.

Mr. TOWNSEND (when his name was called). On this vote I am paired with the senior Senator from Tennessee [Mr. MCKELLAR]. Not knowing how he would vote I withhold my vote.

The roll call was concluded.

Mr. THOMAS of Idaho. I find that I can transfer my pair with the junior Senator from Montana [Mr. WHEELER] to the Senator from North Dakota [Mr. NYE], which I do, and vote "yea."

Mr. STEPHENS (after having voted in the negative). I have a pair with the Senator from Indiana [Mr. ROBINSON]. I transfer that pair to the senior Senator from Arizona [Mr. ASHURST], and let my vote stand.

Mr. MCNARY. I desire to announce the following general pairs:

The Senator from Massachusetts [Mr. GILLETT] with the Senator from North Carolina [Mr. SIMMONS];

The Senator from Indiana [Mr. WATSON] with the Senator from South Carolina [Mr. SMITH];

The Senator from Wyoming [Mr. SULLIVAN] with the Senator from Tennessee [Mr. BROCK];

The Senator from Illinois [Mr. DENEEN] with the Senator from North Carolina [Mr. OVERMAN];

The Senator from Maine [Mr. GOULD] with the Senator from Utah [Mr. KING];

The Senator from Pennsylvania [Mr. REED] with the Senator from Arkansas [Mr. ROBINSON];

The Senator from Vermont [Mr. GREENE] with the Senator from Arkansas [Mr. CARAWAY]; and

The Senator from Missouri [Mr. PATTERSON] with the Senator from New York [Mr. WAGNER].

The senior Senator from Connecticut [Mr. BINGHAM] with the junior Senator from Virginia [Mr. GLASS].

The result was announced—yeas 26, nays 31, as follows:

YEAS—26

Allen	Goldsborough	Kean	Schall
Baird	Grundy	McCulloch	Sheppard
Capper	Hale	McMaster	Shortridge
Fletcher	Hatfield	McNary	Steck
Frazier	Hebert	Norbeck	Thomas, Idaho
Glenn	Howell	Oddie	
Goff	Johnson	Pine	

NAYS—31

Barkley	Copeland	Metcalf	Swanson
Black	Dale	Moses	Trammell
Blaine	Fess	Norris	Vandenberg
Blease	George	Phipps	Walcott
Borah	Harris	Pittman	Walsh, Mass.
Bratton	Harrison	Smoot	Walsh, Mont.
Broussard	Jones	Steiwer	Waterman
Connally	La Follette	Stephens	

NOT VOTING—39

Ashurst	Glass	McKellar	Simmons
Bingham	Gould	Nye	Smith
Brock	Greene	Overman	Sullivan
Brookhart	Hastings	Patterson	Thomas, Okla.
Caraway	Hawes	Ransdell	Townsend
Couzens	Hayden	Reed	Tydings
Cutting	Heflin	Robinson, Ark.	Wagner
Deneen	Kendrick	Robinson, Ind.	Watson
Dill	Keyes	Robsion, Ky.	Wheeler
Gillett	King	Shipstead	

So Mr. CAPPER's amendment to the amendment made as in Committee of the Whole was rejected.

Mr. HATFIELD. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from West Virginia offers the following amendment: Schedule 1, chemicals, oils, and paints, paragraph 1, page 2, line 8, strike out "three-fourths of 1 cent" and insert in lieu thereof "2 cents"; and in line 9 strike out "2 cents" and insert "3 cents," so as to read:

PARAGRAPH 1. Acids and acid anhydrides: Acetic acid, 2 cents per pound; containing by weight more than 65 per cent, 3 cents per pound.

Mr. SMOOT. Mr. President, I did not understand the reading of the amendment, or else it should be changed. I should like to have the amendment read again. It does not fit in with the language of the bill, as I understood the reading.

The PRESIDING OFFICER. The clerk will again read the amendment.

The legislative clerk again read the amendment.

Mr. HATFIELD. Mr. President, some days ago in the Committee of the Whole a tariff of 1½ per cent per pound was voted by this body on acetate of lime. It was pointed out at that time that this industry provided means for the subsistence of 100,000 people, with an industrial investment of $75,000,000.

Mr. President, this industry could be likened to a protector of conservation utilizing waste products that the lumbering industry of the country would have, and which will decay and be lost as to any practical value unless this industry is conserved.

The chief product of the wood chemical industry, which is the name applied to it, is more than 100 years of age, and formerly furnished all of the wood alcohol and exported a great amount, also charcoal and acetic acid. It was one of the industries that was taken over during the war period and served an integral part of the American contribution in the way of supplies and munitions to the allied armies.

Because of the synthetic development of methanol, or wood alcohol, the only product that is left that will continue this industry is acetic acid, which is made by combining the acetate of lime with sulphuric acid.

New plants have just been opened in England for the production of acetic acid, which will eliminate in a large measure the amount of acetic acid going to that country from Canada which is produced by the Shawinigen Chemical Co. (Ltd.).

The vice president of the Shawinigen Chemical Co., Mr. V. G. Bartram, now in London, has cabled to his American representative that every effort must be made to prevent an increased tariff on acetic acid. The representative of the Canadian com-

pany in this country is now in Washington for the sole purpose of working against this tariff.

Shawinigen Chemicals (Ltd.) in Canada is the largest producer of acetic acid, and now that their foreign market has been partially eliminated they must look to the United States for placing their output.

The Dominion of Canada has 30,000,000 horsepower of water power capable of development into electrical energy, which is equal to the entire electrical power artificially produced in the United States.

The Province of Quebec alone has 11,000,000 horsepower, and at Shawinigen Falls, Quebec, the Shawinigen plant is located. This producer is greatly interested in seeing to it that the industries of America that produce acetic acid have no additional protection. The same attitude was taken by the producers of carbide in Canada when tariff on carbide was being discussed in the tariff bill of 1922, and as soon as this Canadian carbide industry lost its battle against the American industry they promptly moved to America and located a plant at Keokuk, Iowa, where they are producing carbide at the present time.

When Maine more than 20 years ago began to develop her water-power energy she was asked, through her legislature and her governor at that time, to permit the excessive energy produced by water power to flow out of the State into the New England section.

Maine was reticent about doing this for fear she would lose control of her water-power privileges and rights. When the Legislature of Maine refused to grant the request made by the New England industries, the same New England representatives went to Canada and made a like proposition to the lawmaking body of the Dominion and through their governor they were told, I am informed, that they had no electrical energy to sell to the New England manufacturer, but they were intensely interested in having the American manufacturer move over to Canada where they would be granted the privilege of utilizing all that they could consume of the cheap electrical energy made from water power.

Ontario is capable of developing 7,000,000 horsepower of electrical energy from water power. The cities of this province have gone together and are selling cheap electrical energy much less than it can be produced in the United States, and less than 10 per cent of the water power of Quebec and Ontario is now being utilized. So it is easy to see and can be readily understood what the United States is confronted with in the matter of commerce and trade for the future.

It is more important to-day to the welfare of American industry to apply the principles of protection because of the progress of her development than ever before in the history of our country.

I wish to say in conclusion, Mr. President, that unless the acetic-acid industry in America shall be protected it will go out of business; for that is the only product it has to sell in the markets of this country to-day. I hope the amendment will be adopted.

The PRESIDING OFFICER. The Chair will state to the Senator from West Virginia that his amendment, in part, is not in order. That portion in line 10 with reference to "acetic anhydride, 5 cents per pound, and boric acid," can not be considered without a reconsideration of the vote heretofore taken. The first two branches of the amendment are in order.

Mr. HATFIELD. That is the portion which proposes to increase the rate on acetic acid to 2 cents a pound?

The PRESIDING OFFICER. The portion of the amendment proposing to strike out "three-fourths of 1 cent" and insert "2 cents" is in order, and the portion striking out "2 cents" and inserting "3 cents" is also in order.

Mr. HATFIELD. That is all I am interested in, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia offers an amendment on page 2, striking out in line 8 "three-fourths of 1 cent," and inserting "2 cents," and in line 9 striking out "2 cents" and inserting "3 cents." The question is on the amendment.

Mr. BARKLEY. Mr. President, has the Senator from West Virginia concluded?

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. BARKLEY. I thought he was still lingering on.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BARKLEY. Mr. President, I am afraid that if we spend much more time on these West Virginia acids we will produce some T. N. T. that may be very useful a few months later.

Mr. HATFIELD. Mr. President——

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

Mr. BARKLEY. I yield.

Mr. HATFIELD. I wish to say that this acid served the American Expeditionary Forces in Europe in a very substantial way during the World War; and I wish further to say to the Senator from Kentucky that West Virginia is always ready to respond patriotically, industrially, or otherwise.

Mr. BARKLEY. Yes; and of course we all agree to that, because she is doing it here several times a day even yet. Mr. President, all of this, of course, is in good nature. The Senator from West Virginia and I understand each other. The real difficulty with the Senator's contention, however, is that acetic acid produced by wood distillation is not capable of competing with acetic acid produced by more modern methods.

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

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

Mr. BARKLEY. Mr. President, I only have 10 minutes, and I hope the Senator will excuse me, because if he undertakes to answer each statement I make as I make it I am afraid he will consume most of my time, because his answers are longer than my statements.

We produce in the United States more than 56,000,000 pounds of acetic acid. There are three different ways of producing acetic acid. One is from acetate of lime; another is synthetically, from acetylene gas; and the third is by the fermentation of molasses or other carbohydrate material.

The domestic production of acetic acid increased from 42,000,000 pounds in 1919 to practically 57,000,000 pounds in 1927, and that increase has gone on each year. In 1921 the domestic production was 23,500,000 pounds, in 1923 it was 29,470,000 pounds, in 1925 it was 29,824,000 pounds, and in 1927 it was 56,990,000 pounds, or practically 57,000,000 pounds.

We have imported less than 5,000,000 pounds of this acetic acid. In the year 1922 we exported 5,000,000 pounds, though the exports have fallen off since that time, largely because our domestic industry has required the use of acetic acid. While the importations, outside of 1928, have never been more than a little over 3,000,000 pounds, the increase in the domestic production jumped in one year from 29,000,000 pounds to 56,000,000 pounds, because of a need for a larger quantity of it for industrial uses of the United States.

The price of this acid has not gone down because of importations; in fact, it has not been reduced at all, for in January, 1925, it sold at 3.12 cents a pound for the 28 per cent grade and 5.85 cents for the 56 per cent grade, while in 1928 it was selling for 3.63 cents and 6.85 cents, respectively. So that it has actually increased in price in the United States, despite the fact that the domestic consumption has increased, and while there has been a numerical increase in the importations, proportionately the increase in importations of this acetic acid has not been comparable to the increase in domestic production.

This acid is used in the manufacture of solvents, particularly of ethyl and butyl acetate, which are used in pyroxylin plastics and in lacquers. Pyroxylin plastics are now being used in the manufacture of all sorts of articles of household necessity, of toilet articles of every kind; and the lacquers go into the painting and varnishing of automobiles, and other high-grade articles which require a fine polish.

The question, Mr. President, is whether because of the desire of one local community we are to increase the tariff, although we increased almost by 100 per cent in one year our domestic production, and although the price has gradually increased to where it has not been affected by importations, because in only one year have there been importations of as much as 5,000,000 pounds as compared to a production of more than 56,000,000 pounds.

For those reasons, Mr. President, I trust that this amendment will not be agreed to.

Mr. VANDENBERG. Mr. President, I merely wish to observe that the Senator from Kentucky is wholly wrong when he says there is only one small locality interested in this item. The State of Michigan, for instance, is very keenly interested in it, and there is a very substantial production in that State. The State of New Jersey is also keenly interested, I understand. The truth is that Tennessee, Kentucky, Mississippi, Pennsylvania, New York, and Wisconsin, in addition to Michigan and New Jersey, are very substantially interested.

So, without repeating the very excellent argument made by the junior Senator from West Virginia [Mr. HATFIELD], I simply rise to correct a misapprehension created by the remarks of the Senator from Kentucky that this is a local issue, interest in which is confined to one spot.

Mr. BARKLEY. Mr. President, if the Senator will permit me, I did not mean that no other community is interested in it;

I did not mean that even West Virginia is a small locality; very far from it. What I had reference to was that this request, after having been passed on once by the Senate as in Committee of the Whole, and having been passed on by the House, the committee of the House, and the Committee on Finance of the Senate, the Senator from West Virginia was the only Senator who raised his voice at this stage of the proceeding in behalf of this increased rate.

Mr. GOFF. Mr. President——

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Michigan yield to the Senator from West Virginia?

Mr. VANDENBERG. I will yield in a moment. Let me say to the Senator from Kentucky that the reason the Senator from West Virginia is the only Senator who has raised his voice is that he is the only one who has had an opportunity up to this moment to do so, inasmuch as the Senator from Kentucky immediately followed him. I am just as much interested in this item on behalf of a very substantial industry in the State of Michigan as is my good friend from West Virginia. I want to call the attention of the Senator from Kentucky to the reason why the situation has changed since the subject was considered as in Committee of the Whole.

Mr. BARKLEY. If the Senator will yield to me there, I will say also that in Michigan there is a very substantial industry that uses the product of acetic acid, which also is entitled to some consideration.

Mr. VANDENBERG. Well, the Senator from Michigan takes his protection "straight," and when there is a difference in the cost of production at home and abroad, the Senator from Michigan votes for a tariff, regardless of the consumptive market in his own State.

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

Mr. VANDENBERG. I will yield in a moment. The only thing further I want to say to my good friend from Kentucky is that the imports of acetic acid have been increasing at a rate and in a degree during the last two or three months which puts a definite danger signal up, and it is perfectly obvious, particularly in view of the contemporary experience of these plants, that unless this additional protection shall be afforded the industry is dead.

Mr. GOFF. Mr. President, I desire in the 10 minutes I have left to call attention to certain matters which have been suggested but not touched upon in the debate.

Acetate of lime, the common name for calcium acetate, is an article of primary importance in American industry. From it is derived acetone and acetic acid, which, in turn, go into solvents, into white lead, textiles, artificial silks, dyes, and many other items. The normal consumption of acetate of lime in recent years in our country has been around 145,000,000 pounds annually, all of which the wood chemical industry of our country has been able to produce, and in addition thereto we have exported ten to twenty million pounds annually.

In the interest of the wood chemical industry of the Nation, an industry that is to-day supplying 95 per cent of the hardwood charcoal and 85 per cent of the acetate of lime consumed, and one that has until recently furnished all the methanol used in our country, I desire to say that previous to the late war we supplied not only the requirements of our own country for these above products but exported large quantities of methanol and acetate of lime. The rapid development of the chemical industry of Europe since the war has changed this situation, and to-day great chemical cartels of Europe are in alliance with their wood chemical manufacturers, whose surplus products are being exported to the United States in increasing quantities.

The wood chemical industry in the United States is distinctly a rural industry. As such, it is closely associated with farming and lumbering activities. A large portion of the labor used in cutting and transporting cordwood to the plants is recruited from the farms, especially in the winter seasons.

This industry is to-day providing means of sustenance to 100,000 people, and represents in all its phases an investment of $75,000,000. It enjoys a unique field in the conservation realm in that it obtains in a large measure its supply of raw materials from the waste of the lumbering industry, a by-product of the forest that would otherwise be consigned to the fire dump at the sawmill or left to decay in the woods as forest refuse.

The need of the wood chemical industry in the national defense during the recent war was so great that our Government singled it out as one of the few industries whose entire production was commandeered for war purposes. Surely such an industry is worth caring for in time of peace and preserving for that time when charcoal, acetate of lime, and methanol may again be required for the making of munitions of war.

It is realized, and it has been correctly stated by those who have recently discussed this matter, that without this protection this industry, using waste products of the forests and giving employment to upward of 100,000 men in the States of Tennessee, Mississippi, Kentucky, West Virginia, Pennsylvania, New York, Michigan, and Wisconsin can not survive against growing imports of foreign lime and against the greatly increased competition of synthetic acetic acid made abroad, and now being imported into the United States in tremendous volume.

The following table from official records speaks for itself:

Imports of acetic acid (pyroligneous) into the United States from 1871–1929

	Pounds	Value
1871	146	$120
1881	4,223	942
1891	10,946	1,036
1901	291,801	21,182
1913	39,648	3,036
1914	27,750	1,952
1915	312,850	16,419
1916	504,858	53,969
1917	201,604	28,492
1918	264,997	47,673
1919	1,252,649	224,482
1920	2,925,076	339,178
1921	859,755	108,090
1922	21,744	17,104
1923	269,960	31,325
1924	1,266,548	136,865
1925	2,108,787	239,298
1926	4,519,465	325,703
1927	9,660,854	673,046
1928	12,176,580	944,611
1929	[1] 7,416,586	796,755
1929	[2] 19,896,106	1,165,029

[1] Containing more than 65 per cent acetic acid.
[2] Containing not more than 65 per cent acetic acid.

The present rate of duty on acetic acid is: Acetic acid containing by weight not more than 65 per cent of acetic acid, three-fourths of 1 cent per pound; containing by weight more than 65 per cent, 2 cents per pound; acetic anhydride, 5 cents per pound.

When the existing tariff schedule was formulated it was believed that as all the known synthetic processes of making acetic acid necessitated the production of glacial acid (i. e., acid 99–100 per cent in strength), due to the inherent nature of the processes, consequently all such acid imported would perforce bear the higher duty of 2 cents per pound. But by the simple expedient of adding 35 per cent of water the foreign acid was reduced to 64 per cent strength and the greater part imported in that form at the lower rate of three-fourths cent per pound.

It will be noted from these figures that 19,896,106 pounds of the lower strength as compared with 7,416,586 pounds of the higher strength acid was imported in 1929.

It is obvious that 64 per cent acid, paying a duty of three-fourths cent per pound is the equivalent of 100 per cent acid at a duty of 1.15 cents per pound; whereas it was contemplated that most acid imported would pay at the rate of not less than 2 cents per pound. This is palpably an unjust and inequitable provision of the present law.

When it is considered that a pound of calcium acetate having a content of less than 65 per cent acetic acid is to carry a duty of 1½ cents per pound, it is most unreasonable to permit 65 per cent acetic acid to enter with a duty of only three-fourths cent per pound. This is a totally unsound and improper relationship; for, as first stated, acetic acid is practically the sole product manufactured from acetate of lime. From that standpoint, lime is really crude acetic acid, and should be truly considered in terms of acetic acid as a commodity.

It requires approximately 2 pounds of lime to make 1 pound of glacial or 100 per cent acid, as can be substantiated by the records of the principal manufacturers or converters of calcium acetate into acetic acid.

Obviously, the duty on acetic acid must be considered jointly and directly with the duty on calcium acetate in the ratio of 2 to 1. If the duty on the acetate is 1½ cents per pound the duty on 100 per cent acid should be 3 cents per pound; for it takes 2 pounds of the acetate to make 1 pound of the acid.

If such a relation be not maintained, the foreign producers not only can continue to flood our markets with synthetic acid under an unfair rate of duty but the German and other foreign producers of acetate of lime can turn their lime into acetic acid and send this additional acid into our markets under this same inequitable rate.

Unless acetic acid be dutiable at a properly proportionate rate with calcium acetate the latter product is without adequate protection, no matter what its rate of duty may be. To assess the

lime and not the acid equally is to place the product which is admittedly entitled to protection in an even more vulnerable position than ever, and to subject it to even greater competition from foreign acid.

The present time finds the industry carrying in its inventories an unsold surplus corresponding closely to the amount of acetate of lime imported into this country during the year 1929.

It was suggested a few moments ago by the Senator from Michigan that the imports were large. I have simply these figures, to which I shall hastily refer:

The increase in acetate of lime importations for the year 1929 is substantially as follows:

From Canada, 8,308,752 pounds.

From Germany, 8,419,035 pounds.

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

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

Mr. GOFF. Yes.

Mr. BARKLEY. The Senator realizes that this acetic acid imported from Canada is produced by a Canadian concern that owns and operates a mill on the American side at Niagara Falls.

Mr. GOFF. As to some of it, that is true.

Mr. BARKLEY. Yes. They have come over on the American side and established a plant, and are now producing it.

Mr. GOFF. I would yield further, but the Senator knows that my time is very limited.

From Yugoslavia, 5,787,177 pounds.

From Belgium, 1,672,571 pounds.

From the Netherlands, 288,186 pounds.

From the United Kingdom, 114,189 pounds.

Exports and imports of acetate of lime as compiled by the United States Tariff Commission during the last five years show clearly our loss of foreign markets to our foreign competitors, and in turn their invasion of our domestic market:

Year	Imports, in pounds	Exports, in pounds
1925	4,973,475	22,038,213
1926	4,934,594	18,588,031
1927	6,893,005	11,633,785
1928	9,005,809	11,172,085
1929	24,658,843	101,198

Of these imports for 1929, 16,117,764 pounds came in free of duty, and 8,465,843 pounds paid a small countervailing duty.

It is obvious that no industry can remain prosperous under such a situation. Domestic inventories are rapidly increasing, and profits disappearing. If the wood-chemical industry is to thrive, it must receive the fostering care that our Government has traditionally granted to home industries when menaced by foreign competition.

In my opinion, the duty proposed will afford the necessary protection, and I sincerely trust it will be granted by the Senate.

The PRESIDING OFFICER. The question is on the amendment of the Senator from West Virginia [Mr. HATFIELD].

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Allen	Fess	Jones	Schall
Ashurst	Fletcher	Kean	Sheppard
Baird	Frazier	Kendrick	Shortridge
Barkley	George	Keyes	Smoot
Bingham	Glenn	La Follette	Steck
Black	Goff	McCulloch	Steiwer
Blaine	Goldsborough	McMaster	Stephens
Blease	Grundy	McNary	Swanson
Borah	Hale	Metcalf	Townsend
Bratton	Harris	Moses	Trammell
Brookhart	Harrison	Norbeck	Vandenberg
Broussard	Hastings	Norris	Walcott
Capper	Hatfield	Oddie	Walsh, Mass.
Connally	Hayden	Phipps	Walsh, Mont.
Copeland	Hebert	Pine	Waterman
Dale	Heflin	Ransdell	Watson
Dill	Johnson	Robinson, Ind.	

The PRESIDING OFFICER. Sixty-seven Senators having answered to their names, a quorum is present. The question is on the amendment offered by the Senator from West Virginia [Mr. HATFIELD].

Mr. VANDENBERG and other Senators called for the yeas and nays, and they were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METCALF (when his name was called). I have a general pair with the Senator from Maryland [Mr. TYDINGS]. I therefore withhold my vote. If I were permitted to vote, I should vote "yea."

Mr. FRAZIER (when Mr. NYE's name was called). My colleague [Mr. NYE] is unavoidably absent. If present, he would vote "nay."

Mr. THOMAS of Idaho (when his name was called). I am paired with the junior Senator from Montana [Mr. WHEELER]. If permitted to vote, I would vote "yea."

Mr. TOWNSEND (when his name was called). On this vote I have a pair with the senior Senator from Tennessee [Mr. MCKELLAR]. Not knowing how he would vote, I withhold my vote.

Mr. WATSON (when his name was called). I have a pair with the senior Senator from South Carolina [Mr. SMITH]. I transfer that pair to the junior Senator from Ohio [Mr. MCCULLOCH] and vote "yea."

The roll call was concluded.

Mr. FESS. I announce the following general pairs:

The Senator from Massachusetts [Mr. GILLETT] with the Senator from North Carolina [Mr. SIMMONS];

The Senator from Wyoming [Mr. SULLIVAN] with the Senator from Tennessee [Mr. BROCK];

The Senator from Illinois Mr. [DENEEN] with the Senator from North Carolina [Mr. OVERMAN];

The Senator from Maine [Mr. GOULD] with the Senator from Utah [Mr. KING];

The Senator from Vermont [Mr. GREENE] with the Senator from Arkansas [Mr. CARAWAY];

The Senator from Missouri [Mr. PATTERSON] with the Senator from New York [Mr. WAGNER]; and

The Senator from Pennsylvania [Mr. REED] with the Senator from Arkansas [Mr. ROBINSON].

Mr. HAYDEN. I transfer my pair with the junior Senator from Kentucky [Mr. ROBSION] to the senior Senator from Arizona [Mr. ASHURST] and vote "nay."

The result was announced—yeas 32, nays 29, as follows:

YEAS—32

Allen	Fletcher	Jones	Ransdell
Baird	Glenn	Kean	Robinson, Ind.
Bingham	Goff	Kendrick	Shortridge
Brookhart	Grundy	Keyes	Steiwer
Capper	Hale	McNary	Trammell
Copeland	Hatfield	Oddie	Vandenberg
Dale	Hebert	Phipps	Waterman
Fess	Johnson	Pine	Watson

NAYS—29

Barkley	Frazier	Heflin	Steck
Black	George	La Follette	Swanson
Blaine	Glass	McMaster	Walcott
Blease	Goldsborough	Moses	Walsh, Mass.
Borah	Harris	Norbeck	Walsh, Mont.
Bratton	Harrison	Norris	
Connally	Hastings	Schall	
Dill	Hayden	Sheppard	

NOT VOTING—35

Ashurst	Greene	Patterson	Stephens
Brock	Hawes	Pittman	Sullivan
Broussard	Howell	Reed	Thomas, Idaho
Caraway	King	Robinson, Ark.	Thomas, Okla.
Couzens	McCulloch	Robsion, Ky.	Townsend
Cutting	McKellar	Shipstead	Tydings
Deneen	Metcalf	Simmons	Wagner
Gillett	Nye	Smith	Wheeler
Gould	Overman	Smoot	

So Mr. HATFIELD's amendment to the amendment made as in Committee of the Whole was agreed to.

Mr. HATFIELD. Mr. President, I send an amendment to the desk, which I desire to offer.

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. On page 9, line 5, strike out the word "pound" and insert the words "pound; ethylhydrocupreine and salts and compounds thereof, 20 cents per ounce."

Mr. HATFIELD. Mr. President, I feel that my colleagues will probably have to trust to my good friend, the senior Senator from New York [Mr. COPELAND], to attest to the efficiency and potency of this drug, and we will try to convince this body that it should be protected to the point of continuing its manufacture in the United States.

This drug is a kindred product of the quinine family. The symbol for quinine is $C_{19}H_{22}N_2OHOCH_3$, and for ethylhydrocupreine the symbol is $C_{19}H_{22}N_2OHOCH_3$.

Protection is needed if the manufacture of this drug is to continue in this country. Up to May 30 of this year it will be protected by a patent, but on that date the patent will expire.

I may say for the information of the Senate that Merck & Co., manufacturing chemists, are one of the oldest and most reliable firms in America. A part of the now existing organization was established in 1819 under the name of Power & Weightman.

This medicine is referred to as optochin base, or ethylhydrocupreine, in the treatment of lobar pneumonia, and there is claimed for it some specific action on the diplococcus bacillus responsible for the disease. It is highly indorsed by some of

the outstanding men in the medical profession as being capable of destroying the virulence found in the pus of empyema.

By empyema I mean a collection of pus in the chest cavity, usually following an attack of pneumonia.

The other product of optochin base, or ethylhydrocupreine, is known as optochin hydrochloride, which is considered a specific in the treatment of pneumococcial infections of the eye, traumatic, or otherwise resulting in the formation of an ulcer which is serpiginous in its conduct, finally leading to perforation and destruction of the eye if not promptly dealt with by vigorous treatment. This remedy seems to offer the greatest assurance against such a termination.

This drug is also used very successfully in the treatment of pneumococcial meningitis. The advocates or authors in part who support the efficiency of this drug are to be found among the men representing the highest standard in the way of ability in the profession of medicine.

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

Mr. HATFIELD. I yield.

Mr. SMOOT. If I know just exactly what this drug is, and the situation that exists in regard to it, and I think I do, I understand it costs $16 an ounce.

Mr. HATFIELD. Sixteen dollars an ounce.

Mr. SMOOT. The Senator is asking a duty of 20 cents an ounce?

Mr. HATFIELD. That is correct.

Mr. SMOOT. I also understand that the patent will expire in May?

Mr. HATFIELD. In May of this year.

Mr. SMOOT. I do not see why we should not accept the amendment and let it go to conference.

The PRESIDING OFFICER. The Senator from Utah suggests that the amendment be accepted and taken to conference.

Mr. SMOOT. I think that is proper.

Mr. HATFIELD. That is agreeable to me.

Mr. BARKLEY. Mr. President, I would like to know whether this is one of the remedies for pneumonia.

Mr. HATFIELD. This is supposed to be a specific for the true pneumonia, caused by the diplococcus of pneumonia.

Mr. BARKLEY. So this is an additional tax on those who happen to be unfortunate enough to have pneumonia?

Mr. HATFIELD. No; Mr. President, I do not concede that. It is a protection to an American citizen, who develops pneumonia, so that he will not have to send to Germany to get the drug.

Mr. BARKLEY. But he will have to pay more for it if he gets pneumonia.

Mr. HATFIELD. The same price is quoted in Germany upon this product as is quoted in the United States.

Mr. SMOOT. I hope the Senate will accept the amendment, and let it go to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. Schedule 1 is still open for amendment.

Mr. COPELAND. Mr. President, can the Chair suggest any parliamentary way by which I may ask for a higher rate on casein?

The PRESIDING OFFICER. The Chair is advised that that has been finally acted on by the Senate.

Mr. COPELAND. There should be found some way to do justice to the farmers. The extra session of Congress was called originally to help the farmer.

Mr. WALSH of Massachusetts. Why does not the Senator ask unanimous consent?

Mr. COPELAND. Mr. President, I ask unanimous consent that we may reconsider the casein item.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent that the Senate reconsider the item relating to casein. Is there objection?

Mr. SMOOT. I object.

The PRESIDING OFFICER. Objection is made.

Mr. JOHNSON. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSON. Has not the Senator the right to offer an amendment in connection with casein?

The PRESIDING OFFICER. The Chair understands that it has been passed upon by the Senate itself.

Mr. COPELAND. Mr. President, have I a right to move to take up the item casein?

The PRESIDING OFFICER. The time to make a motion to reconsider has expired. The Senator can ask unanimous consent to reconsider.

Mr. COPELAND. I ask unanimous consent for a reconsideration of the casein item.

The PRESIDING OFFICER. Is there objection?

Mr. SMOOT. I love the Senator, but I shall have to object.

The PRESIDING OFFICER. The Senator from Utah objects, notwithstanding his love for the Senator from New York.

Mr. COPELAND. Is there any other motion the Chair can suggest?

The PRESIDING OFFICER. The Chair can not suggest any other motion to the Senator from New York.

Mr. BARKLEY. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BARKLEY. Can the Senator from New York suggest some other way by which the price of medicine can be increased to the sick people of this country?

The PRESIDING OFFICER. That is not a parliamentary question which the Chair can answer.

Mr. TOWNSEND. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Delaware?

Mr. COPELAND. I yield.

Mr. TOWNSEND. I desire to offer an amendment.

Mr. COPELAND. Just a moment.

The PRESIDING OFFICER. The Senator from New York has the floor. The Chair would suggest that the Senator from New York has not offered any amendment.

Mr. COPELAND. Does the Chair mean that the Senator from New York is out of order?

The PRESIDING OFFICER. Well——

Mr. COPELAND. I will wait until the Senator from Delaware offers his amendment.

Mr. TOWNSEND. Mr. President, I desire to offer an amendment to paragraph 50, page 23, line 9. After the words "cents per pound," I move to add the words "manufactures of carbonate of magnesia, 2 cents per pound."

While paragraph 50 provides for crude precipitate of magnesia, neither it nor any other paragraph in the bill contains a provision for manufactures of carbonate of magnesia. This is just to correct that. I hope the Senator from Utah will accept the amendment.

Mr. SMOOT. Mr. President, the Senator brought this amendment to my attention this morning, and I sent to the Treasury Department and asked for the latest decision as to what paragraph manufactured magnesium falls in under existing law. There has been suit after suit. It has fallen in one paragraph one time and another paragraph another. The final decision was that it fell in paragraph 214.

I have the statement from the Treasury Department on paragraph 214, and the 30 per cent on the value of the article is less than the 1½ per cent on the crude or precipitate. Therefore, the manufactured article, under the latest decision rendered by the Treasury Department, is taxed at a lower rate than the rate upon the crude or the precipitate.

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

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

Mr. SMOOT. I yield.

Mr. BARKLEY. What is the difference between precipitated magnesium and manufactured magnesium? In other words, in what form is magnesium when it is precipitated?

Mr. SMOOT. It is virtually in its crude form. The dirt is simply taken out. It is in the white form, and then from that stage it is manufactured.

Mr. BARKLEY. So it is manufactured into a more finished form of precipitation?

Mr. SMOOT. No; the precipitation is just the beginning of the manufacture. After it is precipitated then it is manufactured. The rate on the manufactured product in paragraph 214 is a less duty than the 1½ cents on the precipitate. I have a letter from the Treasury Department about it, and I hope the amendment will be agreed to.

Mr. BARKLEY. Mr. President, I ask unanimous consent that the amendment be accepted.

Mr. FLETCHER. Mr. President, may I ask the Senator what the rate is that is proposed by the Senator from Delaware?

Mr. TOWNSEND. It is 2 cents a pound.

Mr. BARKLEY. It is only one-half cent more than the tax on precipitate, and if there is going to be any tax at all it ought to be that much.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Delaware.

The amendment was agreed to.

Mr. SHEPPARD. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On page 24, line 20, insert the following:

Copra, 1¼ cents per pound.

Mr. SHEPPARD. Mr. President, copra is the raw material from which coconut oil is made. Coconut oil is one of the principal vegetable oils. Marine, animal, and vegetable oils are nearly all of similar chemical nature, or at least they resemble each other to such an extent that they are largely applicable to the same uses. Such is the degree to which animal, marine, and vegetable oils may be applied to the same or similar uses, both for food and in industry, that if a tariff rate is justified on a particular oil, it must also be placed on all the other oils if its effect is to be preserved. It is possible for our farmers, ranchmen, and fishermen to produce all the marine, vegetable, and animal oils and fats needed to sustain life and to supply industry in the United States.

Imports of these fats and oils into the United States from foreign lands, principally lands with the lowest living and wage standards in the world, have been growing so rapidly that in 1925 they exceeded exports from the United States by 15,000,000 pounds and in 1927 by 233,000,000 pounds. The excess of imports continues at the present time.

As to animal, marine, and vegetable oils, we are now on a net import basis when we ought to be producing in the United States practically all of these oils so necessary to American industry and so essential for American use, both as to food and industrial products.

Mr. WATSON. Mr. President, I would like to ask a question for information.

Mr. SHEPPARD. I yield to the Senator from Indiana.

Mr. WATSON. Am I to understand that the Senator is making this apply to all coconut oils?

Mr. SHEPPARD. I am moving for a duty on copra, the raw material of coconut oil. There is already a duty on coconut oil.

Mr. WATSON. On all copra brought into the United States from countries other than the Philippines, or including the Philippines?

Mr. SHEPPARD. I do not desire to make the duty applicable to the Philippines.

Mr. SMOOT. Then, of course, it would not help any.

Mr. SHEPPARD. I think it would.

Mr. SMOOT. All copra is imported duty free, and about 75 per cent originates in the Philippine Islands. If we shut out the other 25 per cent by a duty, it would simply mean that the Philippine Islands copra will come here to take its place.

Mr. SHEPPARD. My time is so short that I want to address myself to that matter before I conclude. Last year 25 per cent of the copra coming into the United States was imported from countries other than the Philippines. The duty on copra would be effective to that extent of such importations and would help American farmers and American producers to such extent.

Of course, the proposed tariff can not apply to copra coming from the Philippines, but to the degree that the tariff is effective upon copra from sources other than the Philippines domestic producers of fats and oils will be benefited. Why should we place a duty upon almost all of the other oil-producing commodities and the oils produced therefrom and leave copra, the source of an oil which is one of the greatest competitors of our domestic oils, on the free list? I am asking that the same treatment be extended to this commodity as is extended to almost all others of a similar class. I am asking for a duty of less than 2 cents per pound, and I trust the amendment will be adopted.

Mr. BARKLEY. Mr. President, I want to ask the Senator from Texas if we put this tariff on so it applies only to copra coming from other countries whether the result will not be that none of it will come from those countries but it will all be shipped from the Philippine Islands, and the farmers of this country will receive no benefit whatever from it?

Mr. SHEPPARD. I deny that. I deny that any more will come from the Philippines on that account. No producer in the Philippines will sell copra here at a higher price than the man who produces it outside of the Philippines would get when he sends it to this country.

Mr. BARKLEY. It is easy to deny a thing, but it may be difficult to prove it.

Mr. SHEPPARD. I gave the proof.

Mr. BARKLEY. It is not satisfactory.

Mr. SHEPPARD. Probably not to the Senator from Kentucky, but it is satisfactory to me.

Mr. SMOOT. Mr. President, I can not help believing that the Senator from Texas is in error, and I do not see why he is not. If the Philippine Islands could not produce the oil, then the Senator's statement would be correct; but just as sure as we stand here to-night, if we put on the duty now asked for by the Senator from Texas, while 25 per cent of the oil has been coming from other countries than the Philippine Islands, then all of it will come from the Philippine Islands. They can do it just as well as not. The Philippine Islands can take either the copra or the oil and send it into this country free, and they will ship it in whichever form it can be sent here to advantage.

Mr. SHEPPARD. Why do they not ship all our copra now? It is free of duty.

Mr. SMOOT. I am aware of it.

Mr. SHEPPARD. All of it does not come in now from the Philippines.

Mr. SMOOT. No; because of the fact it is free from every other country. A great deal of that copra now is used in manufacturing oil in the Philippine Islands. If we stop the coming of copra from any other country, it will all come from the Philippine Islands.

Mr. SHEPPARD. I am not proposing a prohibitive duty.

Mr. SMOOT. The duty the Senator is proposing would be more than the profit which they are making to-day, and, of course, the Philippine Islands are not going to throw it away. Therefore it would not do the farmers of this country any good, nor would it do the users of it any good.

Mr. SHEPPARD. I make the point again, and I submit it to the Senate, that the producers of copra outside of the Philippine Islands, when they send copra into the United States after this tariff shall have been imposed, will get the benefit of it. Nobody in the Philippines producing copra would sell it in the United States at a lower figure.

Mr. WATSON. Mr. President, really this is very interesting. My recollection is that we get from the Philippines about 300,000,000 gallons of coconut oil a year and that copra is brought in here from which we extract coconut oil of about a like quantity.

Mr. SMOOT. Those figures are correct.

Mr. WATSON. If we put on a tariff, as suggested by the Senator from Texas, does the Senator from Utah believe that the copra produced in countries other than the Philippines would then be sent into the Philippines where the oil would be extracted and then imported here in order to get the benefit of a free tariff?

Mr. SMOOT. They could do it. They would not have to do it, because they would send the oil here instead of the copra.

Mr. SHEPPARD. There is a tariff on oil now.

Mr. WATSON. That is what I wanted to know. I really wanted to get the Senator's view on it, because it is somewhat complicated.

Mr. SMOOT. I think the Senator erred when he said there was a duty on oil. There is no duty on oil from the Philippines.

Mr. SHEPPARD. There is a duty on oil coming from other countries than the Philippines.

Mr. SMOOT. That is not what the Senator from Indiana asked. If that were the case, then of course this would be effective, but it is not effective because the oil or copra, either one, comes into this country from the Philippines free.

Mr. WATSON. I understand that. I wondered whether it would pay the raisers of copra in countries other than the Philippines to send copra into the Philippines and have the oil extracted and then send it to the United States.

Mr. SMOOT. They would do it without a question of doubt if it was necessary, but it is not necessary, because they have the market anyhow.

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

Mr. SMOOT. I yield.

Mr. FLETCHER. What are the importations of coconut oil from other countries? The other countries will send in the oil. Why will they not send in the copra? We are not dependent on the Philippines entirely for coconut oil.

Mr. SMOOT. In 1928 the coconut oil from all other countries in the world imported here was 60,209 gallons, and in 1927 it was 38,014 gallons, while in 1923 from the Philippines there was imported here 293,000,000 gallons, and in 1928 there were 290,000,000 gallons.

Mr. SHEPPARD. My figures are entirely different from those of the Senator from Utah?

Mr. SMOOT. My figures are the ones reported here by the Tariff Commission.

Mr. SHEPPARD. I have obtained my figures from reliable sources.

Mr. SMOOT. These are governmental figures taken from the importations.

Mr. SHEPPARD. My figures are that about 10 per cent of our imported coconut oil come from outside of the Philippines, a substantial proportion.

Mr. COPELAND. Mr. President, I honor the Senator from Texas [Mr. SHEPPARD], who is striving so valiantly for the farmer. The farmer needs help. There must be a rate placed

upon all oils except those which come from the farm, so that in view of the interchangeability of oils only farm oil will go into soap and the other articles which are manuufactured and used in this country. I think the Senator is entirely right if he wishes to help the farmer, but there are other people beside farmers.

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

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

Mr. COPELAND. I yield.

Mr. BLAINE. May I suggest to the Senator from New York that so long as the Philippine Islands are under the political and economic domination of the United States, a duty on coconut oil or a duty on copra would be wholly ineffective so far as farm relief is concerned? I suggest to the Senator that this is offering the farmer even a fake gold brick.

Mr. SHEPPARD. I deny that. The Senator has no reason for saying that.

Mr. SMOOT. Mr. President——

The VICE PRESIDENT (rapping for order). The Chair must again call attention to the rule which prohibits Senators from referring to other Senators in debate in a way that may reflect upon them. The Chair hopes that Senators will be more careful of what they say to other Senators or about them.

Mr. SMOOT. Mr. President, the Senator from New York made some remark in relation to some other fats that would be used by the soap makers.

Copra is the fat that gives the lather to the soap.

Mr. COPELAND. Let me say to my friend, before he goes any further, that I am in bitter opposition to this proposal. The Senator has missed the point I made.

Mr. SMOOT. No; I understood the Senator was opposed to it.

Mr. COPELAND. I think it is absurd to propose placing tariff rates on articles which we do not produce in our country. We have placed a tariff on vanilla beans—30 cents a pound—but we do not raise any vanilla beans. Why do we not put them on the free list? As a matter of fact, as I was about to say when interrupted by various Senators, there are other people living in the United States besides farmers. There are some who run laundries, and there are women in the cities who use soap as well as do the women on the farms. The proposal to place tariffs on everything in the way of oil in order to force the manufacturers of our country to go to the farm for products from which to make soap and other articles manufactured from oils is absurd.

I want to help the farmer; I am for a tariff on casein. The Senator from Utah has defeated my laudable purpose here tonight. I desired to bring the question of the tariff on casein before the Senate for discussion in order that we might raise the rate upon it in order to help the farmer; but this proposal as offered by the Senator from Texas is going to hurt every woman on a farm in America, because by the time they buy a bar of soap, if these oils are taxed, they will pay more for that bar of soap. Let us, in the interest of our womenfolk and all others concerned, turn aside from the matter of oils and devote ourselves to matters which will really help the farmer, such as the rate upon casein, which I hope will be adopted by the Senate through some parliamentary tactics on our part.

Mr. SHEPPARD. Mr. President——

The VICE PRESIDENT. The Senator is limited to one speech on this amendment. The question is on the amendment offered by the Senator from Texas.

The amendment was rejected.

The VICE PRESIDENT. The schedule is still before the Senate and open to amendment.

Mr. SHEPPARD. Mr. President, I offer another amendment.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. The Senator from Texas offers the following amendment:

On page 24, line 24, before the period, insert "palm oil, 2 cents per pound."

Mr. SHEPPARD. Mr. President, for the same reason that I offered the motion for a tariff on copra, I offer the motion for a tariff on palm oil. It is not logical to place tariff duties on other oils that serve the same purposes as do oil from copra and palm oil and leave those oils on the free list. There is some specific, selfish reason behind a situation like that.

I want to recur briefly to the copra and coconut oil situation. There is a tariff on coconut oil. It is just as absurd, if what the Senator from Utah says is correct, to place a tariff on coconut oil as it is to place a tariff on copra. If there is a tariff on coconut oil—and there is—then also, in all fairness and justice, there should be a tariff on the raw material of coconut oil; and I am sure that Senators will come to that conclusion when they have an opportunity to study the situation more carefully.

The Senator from New York says there ought not to be a tariff on commodities not produced in this country. Commodities are produced in this country which will subserve every purpose that copra and coconut oil serve. Vegetable, marine, and animal oils can be produced in the United States that will fill every purpose that is to-day filled by these oils when imported from abroad.

Take the soap makers. The soap makers use more articles produced in this country than articles produced abroad. The soap makers consume 20,000,000 pounds of cottonseed oil produced in the United States; of peanut oil they consume 3,000,000 pounds; of cottonseed oil foots 120,000,000 pounds; of whale oil 11,500,000 pounds; of herring and sardine oil and menhaden oil 35,000,000 pounds; of tallow 454,000,000 pounds; of white, yellow, brown, tankage, recovered garbage, and bone grease 213,000,000 pounds; of red oil 15,000,000 pounds; miscellaneous 60,000,000 pounds; a total of nearly 937,000,000 pounds of fats and oils produced in this country. They may just as well make all their soap out of articles produced in this country. They go abroad for 700,000,000 pounds of fats and oils, and use them in competition with fats and oils originating in the soil and waters of the United States. Some day we are going to see this matter in its true light and put a uniform tariff on all marine, vegetable, and animal oils coming into this country from abroad.

Now what have we done in the matter of palm oil? It is left on the free list, although we put a duty of 2 cents a pound on coconut oil, 3 cents a pound on cottonseed oil, and 2.8 cents a pound on soybean oil, which are foreign competitors of the principal oils in American industry for both industrial and edible purposes. Palm oil is a similar competitor. In whose interest is it being admitted free of duty?

With those rates thus established from 2 cents to 3 cents a pound, it seems very logical to ask that the other principal industrial and edible oils should carry a rate of 2 cents, the minimum which Congress has placed upon the three most important oils. I submit, therefore, that a duty of 2 cents a pound should be placed on palm oil.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Texas.

The amendment was rejected.

The VICE PRESIDENT. The schedule is still in the Senate and open to amendment. If there be no further amendment to Schedule 1——

Mr. PINE. Mr. President, I submit an amendment.

The VICE PRESIDENT. The Secretary will state the amendment.

The LEGISLATIVE CLERK. After paragraph 98, page 35, after line 2, it is proposed to insert the following:

PAR. 99. (a) Crude petroleum, and fuel petroleum, 40 cents per barrel of 42 gallons.

(b) Petroleum products: Kerosene, benzine, naphtha, gasoline, paraffin, paraffin oil, and all other distillates, derivatives, or refined products of petroleum, 20 per cent ad valorem. The ad valorem rate provided in this subparagraph shall be based upon the American selling price (as defined in subdivision (f), as amended, of section 402, title 4) of any similar competitive article manufactured or produced in the United States. If there is no similar competitive article manufactured or produced in the United States, then the ad valorem rate shall be based upon the United States value, as defined in subdivision (d), as amended, of section 402, title 4. For the purposes of this subparagraph any petroleum product provided for herein shall be considered similar to or competitive with any imported petroleum product which accomplishes results substantially equal to those accomplished by the domestic product when used in substantially the same manner: *Provided*, That all funds derived from the tariffs upon petroleum and the refined products of petroleum as provided by this paragraph shall be covered into a special fund for appropriation, and expenditure by the Secretary of Agriculture under the Federal highway aid act and the amendments thereto and the rules and regulations made thereunder: *And provided further*, That the United States Tariff Commission is hereby authorized and directed to investigate the domestic and foreign costs of production of petroleum and petroleum products; to prepare and file reports of such investigations, and to prepare and submit recommendations concerning duties thereon as in this act provided; to keep a continuous file of the posted price of crude petroleum and the retail price of gasoline; and to make findings as to the average posted market price of crude petroleum at the place of production, and also of the retail price of gasoline at service stations at such principal markets for such gasoline as said Tariff Commission may select: *And provided further*, That no duty shall be collected or charged on crude petroleum or fuel petroleum during such periods as the average posted market price, as found by

said Tariff Commission, of Texas and Oklahoma crude petroleum of a gravity of 36° B., taken at a temperature of 60° F., shall be in excess of $1.50 per barrel at place of production: *And provided further*, That no duty shall be collected or charged upon the petroleum products set forth in subparagraph (b) hereof during such periods as the average retail service-station price, as found by said Tariff Commission, of standard unmixed gasoline in New York City, N. Y., shall be in excess of 20 cents per gallon, exclusive of any gasoline tax collected from the purchasers.

On page 265, strike out lines 3 to 6, inclusive, being paragraph 1734.

Mr. PINE. Mr. President, this amendment is the same as the amendment I submitted last night providing for a tariff on oil. It will be a shame to pass this bill and leave out this most important item. I said the amendment is "the same" as the one offered last night; it is the same except that it provides for a rate of 40 cents per barrel on crude and fuel oil instead of 50 cents, and 20 per cent ad valorem on refined products.

There is a depression in the oil business. The Congress was called together for consideration of a tariff bill that would remedy conditions existing in that industry. As I said last night, it costs 18 cents per barrel to produce oil in Venezuela, whereas it costs $1.70 per barrel to produce oil in Oklahoma and in Texas. The difference is $1.52 per barrel. The consumers of refined products in the United States pay exactly the same price for the product made from the 18-cent Venezuelan oil that they pay for the product made from the Oklahoma and Texas oil. The difference in the cost of production is $1.52 per barrel, but the consumer pays the same price for both oils. The only difference is that those who produce the foreign oil get $1.52, and when it is produced in the United States that $1.52 goes to the laboring man, to the business man, to the manufacturer of the products used in the oil industry.

It is interesting to note that one-eighth of all the steel produced in the United States is used in the oil industry; millions of people make their living out of that industry, and one-tenth of all the oil consumed in the United States is now produced on foreign soil.

The oil industry is a very great one; it is the second in the Nation; and I plead with the Senate to give it some measure of protection. The people who are engaged in the industry are entitled to it.

Mr. SMOOT. Mr. President, I ask unanimous consent that at the conclusion of to-day's business the Senate take a recess until 11 o'clock to-morrow morning.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment offered by the Senator from Oklahoma. [Putting the question.] By the sound the noes have it, and the amendment is rejected.

Mr. PINE and Mr. SHEPPARD asked for the yeas and nays.

Mr. WATSON. Mr. President, did the Chair announce the result?

The VICE PRESIDENT. The Chair ruled that the amendment had been disagreed to.

Mr. PINE. I ask for the yeas and nays.

The VICE PRESIDENT. The demand for the yeas and nays came after the announcement of the Chair. If the Senator says he was on his feet demanding the yeas and nays, the Chair will order the roll called.

Mr. PINE. I ask unanimous consent that the yeas and nays may be had on the amendment.

The VICE PRESIDENT. Is there objection?

Mr. WALSH of Montana. Mr. President, I dislike very much to dissent from the request made by the Senator from Oklahoma, but a very considerable number of Senators have left. That has been disclosed in recent votes. If the Senator insists upon a yea-and-nay vote, I shall be obliged to make the point of no quorum. It does seem to me that we have had a sufficient test of this question.

Mr. THOMAS of Oklahoma. Mr. President, will the Senator yield?

Mr. WALSH of Montana. I yield.

Mr. THOMAS of Oklahoma. Would it be agreeable to the Senator to fix an hour to vote on the amendment without debate?

Mr. WALSH of Montana. It would be agreeable to me.

Mr. THOMAS of Oklahoma. I ask unanimous consent that at 12 o'clock to-morrow noon we have a yea-and-nay vote upon the amendment without debate.

The VICE PRESIDENT. Is there objection?

Mr. GLASS. Mr. President, that would necessitate a call of the roll of the Senate, would it not?

The VICE PRESIDENT. The rule does not require the roll to be called before an agreement to vote on an amendment.

Mr. BLAINE. Mr. President reserving the right to object, if we grant this privilege now in the case of oil, then every Senator who has a certain commodity which he wants to have brought within the dutiable list of the tariff bill will have the same right to ask for the same privilege; it ought not to be denied him; and we will never get through with this tariff bill. Therefore, I must object.

Mr. DILL. Mr. President, I have not voted for a tariff on oil, but I think that it is not quite fair to take advantage of a slip here in this matter. Certainly I have no sympathy with any such methods. The Senator from Oklahoma can very easily offer another amendment by varying a word or two in the amendment which he has offered; so why be technical about it? If the Senators from Oklahoma want a vote on their amendment, why not let them have a vote? Let us be fair in this matter. I think the Senator from Wisconsin ought to withdraw his objection, and if he does not, I think the Senator from Oklahoma ought to offer another amendment.

Mr. TRAMMELL. I have no doubt we can get a quorum; a good many Senators are within easy call, I think, and I do not see why we should not have a quorum and go ahead and dispose of the business of the Senate. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

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

Allen	Fess	Howell	Ransdell
Baird	Fletcher	Johnson	Robinson, Ind.
Barkley	Frazier	Jones	Sheppard
Bingham	George	Kean	Shortridge
Black	Glass	Kendrick	Smoot
Blaine	Glenn	Keyes	Steck
Blease	Goff	La Follette	Swanson
Borah	Goldsborough	McCulloch	Thomas, Okla.
Bratton	Grundy	McNary	Townsend
Brookhart	Hale	Metcalf	Trammell
Broussard	Harris	Moses	Walcott
Capper	Hastings	Norris	Walsh, Mass.
Connally	Hatfield	Oddie	Walsh, Mont.
Copeland	Hawes	Phipps	Waterman
Dale	Hayden	Pine	Watson
Dill	Heflin	Pittman	

The VICE PRESIDENT. Sixty-three Senators have answered to their names. A quorum is present. Is there objection to the unanimous-consent request made by the Senator from Oklahoma [Mr. THOMAS] that the vote rejecting the amendment be reconsidered?

Mr. WALSH of Montana rose.

The VICE PRESIDENT. The Senator from Montana.

Mr. WALSH of Montana. I have no objection to the request, Mr. President.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

Mr. BARKLEY. Mr. President, what is the request now?

The VICE PRESIDENT. The first request was simply for a reconsideration. The Senator from Oklahoma also submitted another unanimous-consent request—namely, that the vote be had at 12 o'clock to-morrow without further debate.

Mr. BARKLEY. Is that what we are now asked to agree to?

The VICE PRESIDENT. That is the question the Chair is now going to put. Is there objection to that request? The Chair hears none, and it is so ordered.

Mr. SWANSON. Mr. President, the proposition, as I understand, is to vote on oil at 40 cents to-morrow?

The VICE PRESIDENT. Whatever the amendment is, to-morrow at 12 o'clock, without debate.

Mr. SWANSON. Has a point of order been made against that amendment?

The VICE PRESIDENT. It has not.

Mr. SWANSON. I make the point of order that the Senate has voted for free oil included in paragraph 1734. An amendment was offered to it, as I understand, which was defeated, and then the section was adopted. There certainly must be some time when the will of the Senate is finally expressed, it seems to me, and not simply have an amendment offered to another paragraph. It does not affect the action on paragraph 1734, which was reserved, voted on, and finally determined, it seems to me, to the effect that we should have free oil. I object to anything except to proceed from that point on.

The VICE PRESIDENT. The Chair overrules the point of order made by the Senator from Virginia, and holds that the amendment is in order.

Is there objection to fixing the time to vote at 12 o'clock to-morrow, without debate? The Chair hears none, and it is so ordered.

The agreement was reduced to writing, as follows:

Ordered (by unanimous consent), That at 12 o'clock on to-morrow, March 21, 1930, the Senate proceed to vote without further debate upon the amendment of the Senator from Oklahoma [Mr. PINE] relative to mineral oil.

The VICE PRESIDENT. The schedule is before the Senate and open to amendment.

Mr. GLASS. Mr. President, as I recall the incident, there was objection to reconsideration of the proposition.

The VICE PRESIDENT. There was not, the last time it was submitted. The Chair submitted the request after the roll call, and there was no objection.

Mr. GLASS. Did not the Senator from Montana [Mr. WALSH] object?

The VICE PRESIDENT. He did not. He said he had no objection.

Mr. GLASS. I understood that he did.

Mr. WATSON. Mr. President, what is the next amendment?

The VICE PRESIDENT. The schedule is before the Senate and open to amendment. The Chair has announced that several times. Are there any further amendments to Schedule 1? If not, Schedule 2 is before the Senate and open to amendment.

Mr. FLETCHER. Mr. President, I offer an amendment to schedule 2.

On page 38, line 11, I move to strike out "$2.50" and insert "$3.25." That is the duty on kaolin.

The House reported $2.50 as the proper duty on kaolin. The Senate Finance Committee reported $1.50. In Committee of the Whole that amendment was rejected; so that in the bill there stands now the rate of $2.50.

Mr. JOHNSON. Mr. President, what page is this, please?

Mr. FLETCHER. Page 38, line 11.

I am asking to make that duty $3.25. The reason why I am doing so is because these clays are produced in this country at a cost much exceeding the cost of production in England, and the rate of transportation from England to this country is much less than the rail rate from the mines in the United States to the points of consumption.

The English clays constitute the chief competitor of the American clays. They are brought over, of course, in vessels, sometimes as ballast, and always at a very low rate of freight; so that in recent years the English clays have almost entirely taken away from the American producers the New England market for these clays, and they are now moving through the Welland Canal to the ports of the Great Lakes by water.

Practically the only market left for the American producers of these clays is the mid-west region—Ohio, Indiana, and Illinois—where the factories using these clays are mainly located. The freight rates from the mines in the United States to those points are so high that even there they have very little, if any, advantage over the producers of these clays in England.

I am asking this duty because it constitutes in a measure the difference between the cost of production here and in England.

The Tariff Commission recently made a review of this matter in their thirteenth annual report of 1929. They say, for example:

> The combined freight charge on English clay from mine to Rumford, Me., is $6.75 per short ton, as compared with $9.14 on the domestic product from Georgia to Rumford.

In other words, clays can be brought over from England to our North Atlantic New England ports at less cost than they can move from the mines in Georgia or Florida or North or South Carolina to those points in this country. So, as I say, the eastern and New England market for these clays has been practically entirely absorbed by the English clays, and they have not only succeeded in capturing the New England market—which used to be our main market—and left us only the mid-west market for our products, but they have obtained a reduction of freight rates from the Atlantic coast to the mid-west places of consumption, and are now in position to deliver their clays in the mid-west regions of consumption at a less cost than can the American or domestic producer.

This report is a very interesting one. The factors entering into the difference in cost may be mentioned substantially as follows:

> The English deposits of china clay are very extensive, the clay beds being frequently worked at depths exceeding 200 feet. In contrast, domestic deposits seldom exceed 25 feet in thickness, and have equally as much or more overburden to be removed. The loose texture of English clays permits the use of hydraulic mining, with resultant low labor cost. Domestic kaolins, being hard and dense, must, as a rule, be hand sorted at the pit and subsequently disintegrated by special machinery. The costs of the domestic mining operations are correspondingly higher than those of the English.

That is from the Tariff Commission; and the English transportation cost is much less than the transportation cost which the domestic producers must pay.

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

Mr. FLETCHER. I yield to the Senator from Ohio.

Mr. FESS. Is not kaolin used as the raw material of pottery?

Mr. FLETCHER. It is.

Mr. FESS. If the rate of duty on the raw material is increased, is there any provision for a compensatory duty on the finished product?

Mr. FLETCHER. We have already increased the rate on pottery to some extent. I understand there is another amendment to be offered.

Mr. FESS. There has been very little assistance given the pottery industry.

Mr. FLETCHER. The Senator from West Virginia gave notice that he would offer an amendment regarding pottery.

Mr. FESS. I am hoping that it will be agreed to.

Mr. FLETCHER. I assume that amendment will be offered, and I am in favor of it. I think the producers are entitled to this increase, and I am in favor of the increase in the pottery rate. I think that should follow.

North Carolina and Florida are the two principal States producing pottery kaolin. Practically none of the kaolin produced in those two States is used for any other purpose except for the manufacture of pottery.

The freight rate from the mines in those two States to consuming points also figures largely in price competition with the foreign product. There is not only a difference in the cost of production but the transportation charge is in favor of the foreign competitor.

I am asking that this rate be made $3.25. The producers appeared before the Ways and Means Committee of the House and the Finance Committee of the Senate and insisted that they should have a rate of $3.75. I have cut that down to $3.25.

The present market for china clay is distributed approximately as follows:

Paper filler clay, New England, 80,000 tons imported. Domestic clays do not go there, because they can not compete with the foreign clays.

New York, Pennsylvania, and Mid West, imported 20,000 tons; domestic, 230,000 tons. They are unable to get to the mid-west region at present, but they are arranging to bring these clays in through the Welland Canal, and they have already obtained a reduction in the freight rate from the Atlantic coast to those points in the Mid West, and they will be able to deliver those clays there much cheaper than we can.

Of the paper coating clay, New England takes 30,000 tons of the imported; none of the domestic.

New York, Pennsylvania, and Mid West take 50,000 tons of the imported, and 25,000 tons of the domestic.

Of pottery clay, New Jersey and Ohio take 170,000 tons of the imported, against 100,000 tons of the domestic. Various noncompetitive uses take 120,000 tons of the domestic.

That is the way the material is being distributed to-day, and largely on account of the cheap production abroad. Besides that, there is an organization abroad, as this report for the Tariff Commission shows, which fixes the price and manipulates the price. Practically all the English producers are members of the Associated China Clays (Ltd.), organized to "fix prices, maintain clay standards, allocate production, and to control shipments to the various markets," according to the statement of the Tariff Commission.

The VICE PRESIDENT. The time of the Senator from Florida has expired.

Mr. WALSH of Massachusetts. Mr. President, I hope the chairman of the Finance Committee will not desert his responsibility in this matter.

Mr. SMOOT rose.

Mr. WALSH of Massachusetts. The Finance Committee heard all the evidence, reduced the rate from that in the present law, $2.50, to $1.50 per ton. On the floor of the Senate the rate of the present law was restored, and now it is proposed to levy a rate of $3.25 per ton. It can not possibly be justified after the action taken by the Finance Committee, which I assume was seeking to give protection to the limit where a case was made out.

Mr. SMOOT. Mr. President, I rose to get recognition from the Chair. As to the consideration of this item by the Finance Committee, the Finance Committee voted to make the rate $1.50 a ton, and when the bill was reported to the Senate, it was reported with that rate on this article. The Senate disagreed with the committee suggestion, putting the rate back to $2.50, as the House had fixed it, and also as the rate is under the present law.

I told the Senator from Florida that I thought that was ample protection, and I hope the Senate will stand by the action already taken.

The VICE PRESIDENT. The question is on agreeing to the amendment.

Mr. NORRIS. Mr. President, I am not familiar with this particular item, so what I say will be rather general in its scope.

There are a good many articles in this tariff bill upon which we have levied a tariff on account of freight rates. We permit the railroads of the country to charge freight rates for a haul part way across the country that is sometimes higher than the combined freight rate across the Atlantic Ocean, and a long haul on the railroad. The imported article gets the benefit of cheap rates on our railroads, as well as across the ocean. In other words, if we eliminate the freight charge on the ocean entirely, and count only the charge from the time the article goes on the railroad, the imported article will be carried at one rate and the domestic article at another. We permit that to be done. We permit the railroads to make that kind of a freight rate as against our domestic production, giving the advantage to the foreign article.

I never could see that there was any justification in that. It is unjust, it is unfair, and it ought to be remedied, not by levying a tariff and adding further to the burden of the consumer, but through a proper adjustment of the freight rates.

It seems to me that when we undertake to relieve that difficulty by levying a tariff, we are only adding insult to injury, we are only attempting, by a governmental subsidy, to compensate for the unjust freight rates which we permit our railroads to charge.

We have been agitating for several years a waterway up the St. Lawrence River and through the Welland Canal. We are told now that freight is brought in through the Welland Canal and thus a cheap rate is secured. Why do we want to develop waterways? Why are we spending millions of public funds to develop waterways? It is in order to get cheap freight rates. Then when we get the cheap freight rates we turn around and levy a tariff burdening the consumer by the tariff in order to make up the loss which comes through a cheap freight rate which we bring about, on the other hand, by the expenditure of public money.

Mr. FLETCHER. Mr. President, may I interrupt the Senator?

Mr. NORRIS. Certainly.

Mr. FLETCHER. The producers have been doing everything they could to persuade the railroads to reduce their rates on this material, and they have been unable to secure any relief.

Mr. NORRIS. That may be; I think there is something in that and I am not disputing it.

Mr. FLETCHER. The Senator is correct in his stand. The only time I ever objected to the reduction of a freight rate by a railroad company in my life was the time when I objected to the railroads reducing their rate from the Atlantic seaboard to the mid-west region on these clays, because that meant that they were sweeping away from us our midwest markets, just as they had taken away the coast markets.

Mr. NORRIS. That is all true. There may be an injustice here, but I submit to the Senator that this is not the logical way to meet that injustice. We ought to meet it directly. In meeting it this way we are only adding to the expense of the consumers in the mid-West by not only an unjust freight rate but we are adding an unjust tariff and making them bear it all.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was rejected.

Mr. FLETCHER. Mr. President, I ask to insert in the RECORD a memorandum on this subject.

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

MEMORANDUM ON CHINA CLAY OR KAOLIN

Tariff Commission survey: The United States Tariff Commission has recently published a comprehensive survey of the kaolin or china-clay industry in its thirteenth annual report, 1929, pages 85 to 90, inclusive.

Present market: Present market for china clay is distributed approximately as follows:

	Imported	Domestic
	Tons	*Tons*
Paper filler clay:		
New England	80,000	
New York, Pennsylvania, and Middle West	20,000	230,000
Paper-coating clay:		
New England	30,000	
New York, Pennsylvania, and Middle West	50,000	25,000
Pottery clay, New Jersey and Ohio	170,000	100,000
Various noncompetitive uses		120,000
	350,000	475,000

COMPARATIVE DELIVERED PRICES

Selling prices of domestic and imported clays at important consuming points from tables, pages 88 and 89, above report.

	Imported, $13.12 at North Atlantic ports		Domestic, $8 at Georgia mines	
	Freight	Delivered price	Freight	Delivered price
Paper filler clay:				
Rumford, Me	$2.50	$15.62	$9.14	$17.14
Kimberly, Wis	7.70	20.82	7.90	15.90

	Imported, $17.86 at North Atlantic ports		Domestic, $13 at Florida mines		Domestic, $16.50 at North Carolina mines	
	Freight	Delivered price	Freight	Delivered price	Freight	Delivered price
Pottery clay:						
East Liverpool, Ohio	$3.40	$21.26	$9.49	$22.49	$6.73	$23.23
Trenton, N. J	1.80	19.66	8.76	21.76	6.01	22.51

Competition is based on delivered price, which is determined by transportation costs, varying with the geographical location of the consumer. The domestic producer is completely shut out of the New England market, which consumes about 30 per cent of all kaolin used by the paper industry. Entrance to the New England territory alone would afford increased production of approximately 100,000 tons annually and relieve conditions in plants now running at only about 50 per cent of their capacity.

Transportation costs now give the domestic clay a slight advantage in the middle western market. However, during 1928 and 1929 English clay has reached that market via the Lake ports, and upon completion of the Welland Canal project there is serious threat that this advantage will be lost.

Costs of production: Figures on costs of production of English clays are not obtainable. The Tariff Commission (p. 87, 1929 report) gives the following data as to the landed cost to an importer of one grade of common filler clay in 1928: Free on board mine, $5.85; inland freight, $1.20; ocean freight, $3.04; landed cost, $10.18; duty (short ton), $2.23; cost, $12.41; selling price (average), $13.12.

Costs of production of domestic kaolin have been determined by the United States Tariff Commission from the producers' book. Unfortunately, not all of this information could be disclosed without revealing confidential information from individual firms. The total production cost, including imputed interest and selling expense, of grades used as filler in the paper industry in 1927 is as follows (p. 90, Tariff Com. Rept.):

Georgia, $7.1281; South Carolina, $8.8982; combined average, $7.7222.

It is obvious from the above that the present selling price of domestic filler clay—i. e., $8 per short ton at the mine—is a rock-bottom price and allows no margin for the necessary research and educational work which must be carried on to improve the product and overcome inherent prejudices against the domestic material.

Moreover, structural differences in the formation of the domestic clay beds entail a greater expenditure for labor, power, and fuel to remove overburden of earth, remove the harder and denser deposits of clay, and operate the washing and drying equipment. The domestic clay is greatly improved through purifying and blending processes, whereas the English clay is shipped practically as mined.

Correspondence with prominent farming interests in the southern clay-producing areas indicates that their labor is dependent to a large extent upon off-season employment in the clay industry.

British organization: English clay producers are organized, through membership in Associated China Clays (Ltd.), to "fix prices, maintain clay standards, allocate production, and to control shipments to the various markets." (Tariff Com. Rept., p. 87.) Such tactics here would run the producers afoul of the antitrust laws.

Tax reduction: The Government has recently granted a rebate of 75 per cent of the tax of 60 cents hitherto levied against the English clay producers.

Quality: This factor is overshadowed by that of delivered price. Wherever the domestic producer can gain entrance to the market, his product is accepted, as is evidenced by the tables on the preceding page.

Opinion of Mr. George K. Spence, recognized authority, on page 1138, hearings before Ways and Means Committee.

Letter from S. D. Warren, paper manufacturers, and from other prospective customers indicate price basis is the determinative factor.

Oxford Paper Co., Maine, versus Ohio conditions. See next page.

Various opponents cited are actually using domestic clays, e. g., Jessup & Moore; Tonawanda Paper Co.; Mead Paper Co. et al.

Opposition: Opposition before the Ways and Means Committee came from importers (with one exception, direct representatives of the English producers) and from New England paper manufacturers. Leader stated

only 50 per cent of producers of paper were represented. This was obviously "inspired" opposition.

The firm of Moore & Munger, quoted in the debate of November 5, page 5404, has large importing interests and has stated that they would have to absorb any additional duty.

Mr. H. B. Mills of the Oxford Paper Co., Rumford Falls, Me., appeared before the Ways and Means Committee and the Senate Finance Committee, in opposition to an increase of duty, and argued that it was necessary to have English clays because of their quality. But the best evidence of the fine quality of American clays is furnished by Mr. Mills, who has placed with Edgar Bros. a standing order for monthly deliveries of clay during the year 1930 for the Miami-Oxford plant of the Oxford Paper Co., at Miami, Ohio, where their best grades of paper are manufactured, and where freight rates are favorable for delivery of American clays. This letter is in the material prepared for Senator GEORGE.

Mr. KENDRICK. Mr. President, I offer an amendment, which I send to the desk.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. The Senator from Wyoming offers the following amendment, on page 38, line 10, after the word "ton" at the end of the line, to insert the words "bentonite, unwrought and unmanufactured, $1.50 per ton; wrought or manufactured, $3.25 per ton."

Mr. HALE. Mr. President, I would like to have the amendment stated again.

The amendment was again read.

Mr. KENDRICK. Mr. President, the purpose of this amendment is properly to designate this kind of clay. It is quite similar to, though not the same as, fuller's earth, and the provision on fuller's earth written in the bill, is as follows:

Unwrought and unmanufactured, $1.50 per ton; wrought or manufactured, $3.25 per ton.

There is a difference between these two clays, and the object of the amendment is properly to designate this particular kind of clay.

The necessity for the duty arises from a situation similar to that described by the Senator from Florida in connection with freight rates. The commodity covered by this amendment is produced in three or four Western States, and there are large productions of it in the State of Wyoming. In the year 1927, as I recall, about 34,000 tons of it were used, and in 1928 about 64,000 tons, showing an increase of practically 100 per cent in the course of one year.

The people of the West producing this commodity find that the freight rate to the consuming centers is higher than it is from points in Canada, though the distance is shorter from the Western States to the consuming centers than from Canada. This duty is asked, therefore, as an offset to that situation.

I hope the amendment may be adopted.

Mr. SMOOT. Mr. President, it is true that this article, bentonite, is produced in the Western States. The total sales of the domestic amount to about 34,000 short tons. Its value is about $10 a ton, or a little over. It is used for filler in paper.

Mr. KENDRICK. And for other purposes.

Mr. SMOOT. For weighting in silk and for weighting in paints. It is sometimes, in the pure form, used as an adulterant in candy and in drugs.

The principal competing country is Canada. As the Senator has said, if we are going to reach the markets in New England and the Middle West, there will have to be this rate in order to overcome the freight-rate differential.

That is all there is to it. The present rate is $1 a ton on the crude and on the wrought it is $2. The Senator's amendment is $1.50 on the crude and $3.25 on the wrought.

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

Mr. KENDRICK. I yield.

Mr. BRATTON. What is the domestic consumption of the commodity?

Mr. SMOOT. The domestic sales were 34,000 short tons of a value of $367,456.

Mr. KENDRICK. May I call the Senator's attention to the fact that the consumption had about doubled in 1928, the year following?

Mr. SMOOT. That is true. In 1928 it was 66,577 short tons of a value of $685,923, and in that time the unit value remained about the same, or about one-half cent less.

Mr. PITTMAN. Mr. President, I would like to ask the Senator from Utah if there is any difference in the reasoning that justifies the Senate action in placing a duty of $1.50 a ton on china clay and kaolin and not upon this particular kind of clay upon which the Senator from Wyoming seeks a duty?

Mr. SMOOT. As I remember it, the duty is $2.50 on china clay.

Mr. PITTMAN. As adopted by the Senate?

Mr. SMOOT. Yes.

Mr. PITTMAN. Is there any reason why there should be a duty of $2.50 a ton on china clay and kaolin that does not extend to the character of clay upon which the Senator from Wyoming seeks a duty?

Mr. SMOOT. Of course, they are used for entirely different purposes.

Mr. PITTMAN. But what is the reasoning that justifies the duty?

Mr. SMOOT. It is on the same basis on which the Senator from Florida [Mr. FLETCHER] asks his increase.

Mr. PITTMAN. I am not talking about his increase. The Senate has already agreed to a duty of $2.50 a ton on china clay and kaolin.

Mr. SMOOT. That is a different thing.

Mr. PITTMAN. I understand it is a different thing, but is there any different reason for putting a duty on it at all than there is for placing a duty on this kind of clay?

Mr. SMOOT. I think they are comparable in cost of production and fairly comparable as to uses. The competitive conditions are somewhat different, however.

Mr. PITTMAN. This is rather a new clay—at least, it is new to me, which may not mean anything, but it has not been acted on by the House or the Senate, I understand.

Mr. SMOOT. Yes; we have always had a duty on it.

Mr. PITTMAN. On bentonite?

Mr. SMOOT. Yes. It is in paragraph 207 of the act of 1922, and on the crude it was then on the term "earths, unwrought." They all fell in that class and carried $1 a ton, while the wrought carried $2 a ton. The Senator from Wyoming is asking for a rate of $1.50 on the crude and $3.25 on the wrought.

Mr. FLETCHER. Mr. President, may I ask the chairman of the committee whether there is any difference between fuller's earth and this clay?

Mr. SMOOT. There is a little difference, although it is used in some cases for exactly the same purposes. Fuller's earth is always used in woolen goods to an extent. With colors in wool, particularly when they are light and we do not want too much lye to take the color out of it, then we use the fuller's earth.

Mr. FLETCHER. Where does fuller's earth fall?

Mr. SMOOT. In unwrought.

Mr. WALSH of Montana. Mr. President, it is distinguished in this particular from other clays—that it swells or expands on being moistened, a very peculiar character of clay. It expands upon the absorption of moisture, and therefore becomes an absorbent.

Mr. SMOOT. Fuller's earth is used for the bleaching and clarifying of fats and greases and waxes and that character of article.

Mr. GEORGE. Mr. President——

The VICE PRESIDENT. The time of the Senator from Wyoming has expired. The Senator from Georgia is recognized.

Mr. GEORGE. I should like to ask the Senator from Utah and the Senator from Wyoming about imports. If any statement was made concerning the imports of this particular clay, I did not hear it.

Mr. SMOOT. They are not obtainable, because in all of the past acts they have fallen in the basket clause under unwrought earths.

Mr. GEORGE. As I understand it, they come in now under clays, unwrought?

Mr. SMOOT. Yes.

Mr. GEORGE. Are there any imports of consequence? Can the Senator from Wyoming tell me?

Mr. KENDRICK. The information I have is that the imports coming into the country now are from Canada. They have been but recently initiated on this particular kind of clay. The best authority I have on this peculiar clay is as follows: Bentonite is used for a wide variety of purposes, some of which are similar to the uses of the fuller's earth, as a filler, although it is quite distinguished from fuller's earth in some of its characteristics, and therefore would not take the fuller's-earth rate unless specifically mentioned in the schedule.

Mr. SMOOT. In answer to the Senator's inquiry I will say that of all clays not specifically provided for the importations of crude for the year 1925 were 45,681 tons and for the wrought or manufactured were 1,476,000 tons. I have not the figures for 1929.

Mr. GEORGE. The Senator has not the figures on this particular clay?

Mr. SMOOT. No; those figures cover the whole paragraph.

Mr. KENDRICK. Mr. President, just a word, if I may be indulged.

The VICE PRESIDENT. Under the unanimous-consent agreement the Senator can not speak more than once.

Mr. GEORGE. Mr. President, in my own time I will ask the Senator the question.

Mr. KENDRICK. Mr. President, will the Senator yield to enable me to answer him?

Mr. GEORGE. Certainly.

Mr. KENDRICK. There were thousands of dollars invested within the last 10 years in my State in the mining and production of this commodity. Now that those producers are under way, they find themselves handicapped with this discrimination in freight rates as has heretofore been pointed out, which they are unable to overcome. They are asking for this relief in order that they may simply compete with the commodity coming in from Canada. I hope the amendment will be adopted.

The VICE PRESIDENT. The question is on agreeing to the amendment submitted by the Senator from Wyoming.

The amendment was agreed to.

Mr. McMASTER. Mr. President, I call up the amendment which I have heretofore offered and sent to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. The Senator from South Dakota offers the following amendment:

Substitute the following language for paragraph 202 (a), (b), (c), and (d) in the pending bill:

"Tiles, unglazed, glazed, ornamented, hand painted, enameled, vitrified, semivitrified, decorated, encaustic, ceramic, mosaic, flint, spar, embossed, gold decorated, grooved, or corrugated, and all other earthenware tiles and tiling by whatever name known, except pill tiles and so-called quarries or quarry tiles, red or brown, and measuring seven-eighths of an inch or over in thickness, but including tiles wholly or in part of cement, valued at not more than 40 cents per square foot, 8 cents per square foot, but not less than 45 nor more than 60 per cent ad valorem; valued at more than 40 cents per square foot, 50 per cent ad valorem; mantels, friezes, and articles of every description or parts thereof, composed wholly or in chief value of earthenware tiles or tiling, except pill tiles, 50 per cent ad valorem."

Mr. McMASTER. Mr. President, I will say that the object of the amendment is simply to restore the duties to the 1922 basis. The tile industry is in a very prosperous condition. The industry has increased by leaps and bounds during the last four or five years. In 1927 they produced in this country 90,000,000 square feet of tile and the imports were but 5,000,000 square feet, showing that the imports were only about 6 per cent of the total production in the country.

The tile imported into the United States comes into competition with American tile in only two cities in the United States; that is, New York and Los Angeles.

One tile company in the United States, the American Encaustic Tiling Co., produces 25 per cent of all the tile manufactured in the United States. I want to read one paragraph from their letter written to their stockholders in 1928, as follows:

The year 1928 proved prosperous for the company. The net result after all deductions and Federal income tax was $871,600.49.

In this letter they go on to recite that their business is in an excellent condition; that they are working overtime; that they reconstructed a plant in New Jersey without losing a day's production; that they are having a full demand for the output of their plant. In that connection I want to read a statement from the Wall Street Journal under date of August 30, 1928, as follows:

American Encaustic Tiling is the largest tile-products organization in the world, and its output accounts for about 25 per cent of the total sales in the United States. It is the pioneer in the wall and floor tile industry of the United States, and has four plants—at Zanesville, Ohio, Los Angeles and Hermosa Beach, Calif., and Maurer, N. J., which include over 80 buildings, operating on an area of something over 750,000 square feet.

The four plants of the company are working at capacity business on the west coast, where Encaustic has two plants and is showing large gains. The demand on Hermosa Beach, Calif., factory is particularly heavy.

That is the only place where they have competition on the west coast, and yet they are working to capacity. The only place where they have any competition in the East is in the city of New York, and their plant in New Jersey is working to full capacity. All that the increased duty means is simply that for the sake of the interests of the Encaustic Tiling Co. we are putting an embargo upon the importation of tile into the United States. The other small companies are located in the interior. In just those two cities is there any competition, and it does not seem to be necessary to greatly increase the duties for the accommodation of one company which is so highly prosperous.

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

Mr. McMASTER. Certainly.

Mr. BARKLEY. While the competition may be limited to the vicinity of New York and a point or two on the Pacific coast, the effect of the increase in the tariff will be felt all over the United States, will it not?

Mr. McMASTER. That would be my opinion of the matter, for the reason that this one company is the largest company in the world and produces 25 per cent of all the tiling in the United States. It is the price leader and price maker.

That is all I have to say upon the subject. It seems to me the case is clear that there is no necessity whatever for increasing the duty on tile.

Mr. KEAN. Mr. President, it is true that the American Encaustic Tiling Co. is located at Perth Amboy, in the State of New Jersey. It is also true we have very fine clay in New Jersey, and we have many other very fine things there. While the company referred to may have been prosperous two years ago, the building operations are not extensive at the present time; and, as this material is used in construction work at once the reason is evident for their present condition, which is not one of prosperity. That the company has been economical in the management of its business and created a reserve, so that undoubtedly it can weather the storm is true, but at the present time its earnings have fallen off very greatly. The plant is not working at night now, as the Senator has said; the company is not overburdened with orders at the present time; but it is in a slack condition. Therefore, I hope that this amendment will be rejected.

Mr. BARKLEY. Mr. President, the whole country is in a "slack" condition.

Mr. KEAN. I will not say "the whole country" is in that condition.

Mr. BARKLEY. That is what we have been hearing.

Mr. KEAN. I will say to the Senator that, owing to the efforts of gentlemen on the other side of the Chamber, and other gentlemen, the prosperity of the country has been affected to quite a considerable extent.

Mr. BARKLEY. In other words, after boasting for eight years that the present law has made the country prosperous, our effort to keep that law in effect has brought about a panic.

Mr. FESS. Mr. President, upon the representations of the industry before the Ways and Means Committee, the House increased the rate from 60 per cent in the present law to 70 per cent ad valorem. The Senate committee took the same position which the House took and indorsed the increased rate, and their action was based on the condition of the industry.

My State happens to be one of the largest producers of tiles of all the States in the Union. The industry there employs a large number of workers. It is skilled work and the representations which were made were convincing. It seems to me that it would be very unwise for us at this time to repudiate the action of both the Ways and Means Committee of the House, of the House itself, and of the Finance Committee of the Senate.

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

Mr. FESS. I yield.

Mr. McMASTER. I should like to suggest to the Senator from Ohio that there is no plant in Ohio that is in competition with tiles imported from Europe. The competition is simply in the cities of New York and Los Angeles; that is all; and the Encaustic Tiling desires to have an embargo placed upon tiles so that it can monopolize the west coast and east coast business.

Mr. FESS. I will say to the Senator we have exactly the same situation with reference to cement and to some extent in pig iron. The pig-iron industry in Ohio is not clamoring for a duty on pig iron, but at the same time there is a sympathetic relationship with the industry in other places. I can not see the advantage of in any way jeopardizing industrial conditions.

Mr. SMOOT. Mr. President, I want to call the attention of the Senator from Ohio to the fact that earthenware tiles commonly known as strip, and earthenware tiles commonly called trimmers, are those in which there is the sharpest kind of competition. That is why the Finance Committee added subsections (b) and (c) supplementing the House provision, with a higher rate, and that is where the higher rate is needed, namely, for the little trimmers, so called, and also the strip tiles, in the manufacture of which the great element of cost is labor.

Mr. McMASTER. The testimony before the committee shows that in the last four or five years American manufacturers have invented machinery that has done away with a large part of the labor of which the Senator speaks.

Mr. SMOOT. It is true that every plant has the machinery, but the Senator knows very well that they can make a piece of, we will say, glazed or ornamented or hand-painted or vitrified or decorated flint or spar goods as long as the table here, or two tables, and perhaps weighing 5 or 10 pounds, but even with

machinery the great item of expense is in the manufacture of the little strips, which may not be bigger than that [indicating], as far as the corners are concerned. They require much labor; that is where the great item of labor comes in. I admit that after the tile goes into the kiln the same amount of fire will burn the smaller pieces as it will the larger pieces.

Mr. McMASTER. I understood that there had been a great improvement in the introduction of machinery that greatly reduced labor; in fact, practically eliminated the labor in the manufacture of tiles.

Mr. GOFF. Mr. President, as I understand the justification of the Senator from South Dakota for reducing this tariff is that the tariff is benefiting only one manufacturing industry engaged in the production of tiles?

Mr. McMASTER. I will say to the Senator from West Virginia that one of my chief objections to the duty is because the competition is centered in only two points in the United States, and the second is that I feel that it is an unwise and an unsound policy to enact a tariff law that places an embargo upon any goods being imported into this country.

Mr. GOFF. Mr. President, we all know that in 1928 and a portion of 1929 conditions in the United States were not as bad as they are to-day; we know that there then was a greater demand for all species of products than there is now; and if there ever was a reason why the tariff on tiles should be reduced, it should not be reduced now when these industries are struggling to keep themselves going, according to their daily current expense accounts.

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

Mr. GOFF. I yield.

Mr. McMASTER. I think it is not quite fair to say that we are proposing to reduce the duty; we are simply proposing to maintain the 1922 rate, under which this industry has grown by leaps and bounds in development and in prosperity. We are simply proposing to maintain the present law that gave to the industry its prosperity.

Mr. GOFF. Mr. President, in reply to the suggestion of the Senator from South Dakota let me say, that might have been true in 1928, and in a portion of 1929, but this tariff bill was not written to concord with conditions that existed then but with conditions that were existing at the time the Finance Committee of the Senate added an increase from 60 to 70 per cent ad valorem.

The Committee on Finance of the Senate had these matters before them when they recommended this increase, and they were then viewing economic conditions as we now know them to be. I understand further that there is not now the demand for this manufactured product there was a year ago. Why should we, therefore, discourage these plants that are trying to keep themselves going concerns in view of the present stagnation in business?

The Senator from Ohio has well stated that in the remarks which he made in justification of the maintenance of the increase the Finance Committee has placed upon tile.

If we open the gates to importations, as it seems to be the suggestion of the Senator from South Dakota that we should do, what will be the effect? If, by letting in importations, the productivity of the large plant which is located in New Jersey shall be reduced, that will be bound to have a deleterious effect upon the smaller plants which are struggling to keep themselves going under the conditions now prevailing in the country. Mr. President, for that reason——

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

Mr. GOFF. I should like to yield to him, but, as the Senator knows, I have very little time. However, he may go ahead.

Mr. McMASTER. I merely wish to suggest to the Senator from West Virginia that the Encaustic Tiling Co. has foreign competition under the present rate; it has developed and grown and increased its business in the city of New York in spite of that foreign competition. The foreign competition has not taken any business away from it in the past, but it has grown and developed in the face of that competition.

Mr. GOFF. The market of the tile plants is not confined to New York and neither is their influence. If we take away from the plant in New Jersey its New York market by dividing it up with the importations, at the same time we discourage and affect the markets which the plants of smaller capacity enjoy. So, Mr. President, I hope that the Senate will not adopt the amendment offered by the Senator from South Dakota.

Mr. BARKLEY. Mr. President, the situation in which we find ourselves with reference to this paragraph and innumerable other paragraphs in this bill is very peculiar. An effort is being made to take advantage of the slump in American business, brought about by conditions wholly alien to any tariff law that has heretofore existed and alien to any tariff legislation now in process of enactment. There has been built up here a sort of despondency psychology, a sort of depression complex, by reason of which we are asked to vote duties, many of which I regard as indefensible, on the ground of sympathy because for the time being there is a widespread depression in the United States. Certain gentlemen may deny that there is widespread depression, but if one will recall the depressions that have been wept over during the consideration of this bill and add them all together, there will be found to be universal, unanimous depression, poverty, and despondency throughout the United States in all industries and in every line of business.

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

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from West Virginia?

Mr. BARKLEY. I have only 10 minutes.

Mr. GOFF. I will take only a moment.

Mr. BARKLEY. Very well.

Mr. GOFF. I should like to ask the Senator from Kentucky if he would not indorse sympathy whenever sympathy is a synonym for economic stability?

Mr. BARKLEY. Yes; but I am not willing to base my interpretation of economic stability on sympathy produced by a temporary situation which the President of the United States has said will end in 60 days; and I certainly hope the President is right, and if I have any——

Mr. GOFF. The Senator takes the converse of my proposition, and, of course, he agrees with himself. [Laughter.]

Mr. BARKLEY. Well, I find myself on much safer ground when I agree with myself than when I agree with my friend from West Virginia. [Laughter.]

It has been stated here over and over again, and nobody has denied it, that chief among the industries and activities in which there is a depression is the building industry. Nobody denies that. Nobody can deny it. Bricklayers by the thousands are out of employment in the United States now because no brick building is in progress. Carpenters are out of employment by the thousands in every city because there is no building requiring the use of a carpenter; yet the Senate has put a tariff on lumber to make it still more impossible for a carpenter to obtain work.

The Senate has put a tariff on brick to make it more impossible for a bricklayer to obtain employment, because we are making it more impossible for them to build houses with brick. It has put a tariff on cement. In other words, whatever we have found in this bill that the average man needs, slap a tariff on it, and make him need it still more, and make it still more impossible for him to obtain it!

This bill increases the tariff on practically everything that goes into the building of a house, from the foundation to the roof—all the cement, all the brick, all the tiling, all the bathroom fixtures, all the furniture, all the draperies, all the wall paper, all the carpets and rugs, and even the roof, which is the last part of the construction. The bill adds to all these a tariff.

Mr. WALSH of Massachusetts. And the wall board.

Mr. BARKLEY. And, as the Senator from Massachusetts prompts me to say, even the wall board.

Mr. KEAN. Not the shoes.

Mr. BARKLEY. An effort has been made here to increase the tariff on the pipes run in from the street to carry the water and the gas. There is no article going into the construction of a house, into the furnishings of a house, or into the apparel of those who live in the house, or what they eat while they are in it, or on which they sleep while they are spending the nights, that has not been raised by this tariff bill; and yet Senators complain of unemployment. They complain because carpenters and bricklayers and other men who belong to organized labor in the United States are out of employment; and yet by every item in this bill, by every schedule of it, they seek to make it still more impossible and more expensive for men to use these utilities by reason of which they are required to employ the men who are now out of work in the United States!

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

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from New Jersey?

Mr. BARKLEY. I do. How much more time have I, Mr. President?

The PRESIDENT pro tempore. Four minutes.

Mr. KEAN. I just want to ask the Senator why he does not go on to say that we put a duty on the foodstuffs, too—the wheat and the rye and other foodstuffs, as well as what the people wear?

Mr. BARKLEY. I said what we eat, which I think includes all foodstuffs.

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

The PRESIDENT pro tempore. Does the Senator from Kentucky yield to the Senator from Iowa?

Mr. BARKLEY. I do.

Mr. BROOKHART. Practically all of these tariffs on foodstuffs that the Senator from New Jersey voted for are ineffective; but he is against the debenture, which will make them effective.

Mr. KEAN. Is the Senator from Iowa willing to vote to take them all off?

Mr. BROOKHART. I am willing to vote to keep the debenture.

Mr. BARKLEY. Mr. President, I hope this impromptu exchange will not lead to a reconsideration of other items that we have already voted on four or five times; but I do desire to emphasize the lack of logic, the lack of basic foundation for building a tariff wall based upon a temporary depression in the United States of America.

It has been nearly 10 years since we revised the tariff. It may be 10 years more before we revise it again. Nobody can anticipate—certainly nobody hopes—that this pitiful depression, which men on this floor denied until we got into the consideration of this tariff bill, and which they will deny when they are out campaigning in November, will last until the next tariff revision. In the coming campaign they will deny that there is a panic or a depression, because they will seek to convince their constituents that we are the most prosperous nation in all the earth, and we are more prosperous now than we have ever been before; and yet they take advantage of the very depression that six months ago they denied, and six months hence they will again deny, in order to boost the rates in this tariff bill, which will be in effect for 10 years, or until some other tariff bill has come along to revise the rates that we are providing for here.

I say that it is unfair, it is unjust to the American people, it is unsound and uneconomic, to raise tariff rates upon the basis of a temporary depression that was not produced by tariff rates and can not be remedied by tariff rates. Therefore I hope the amendment of the Senator from South Dakota [Mr. McMASTER] will prevail.

Mr. COPELAND. Mr. President, I have heard a lot about economic theories in the last five or six months. I want to say this:

American industry was never faced with such violent competition as to-day. Because of the economic conditions in Europe, every country is feverishly active to make things to send here, to get back some of the money that we have stored up in this country.

Mr. BARKLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Kentucky?

Mr. COPELAND. I do.

Mr. BARKLEY. In view of all this talk that we have heard about panics and depression, where is that money stored? Is it really stored in this country, in view of all the doleful tales we have been hearing?

Mr. COPELAND. We have $3,000,000,000 in a new bank just organized in New York.

Mr. President, we have disarmament conferences. We are going to have peace in the world! We are going to have happiness by proclamation of somebody on the other side! I am here to say, however, that there will be no happiness or peace which is substantial in its nature until the economic distress of Europe is relieved.

Senators may say that the way to do that is to open our doors and let other nations bring everything they desire into this country. Here is France, receiving 51 per cent of the money paid by Germany, and a lot of it in kind. She is taking materials made in Germany, satisfying the needs of her own country, and then sending the balance all over the world to take customers that we might have.

I want to say to Senators that as I view the situation, our country is facing a great economic crisis. I do not care what caused the panic on Wall Street. I am not interested in that; but I am interested in Congress passing such measure of relief as will give no excuse for the industries of America to say they can not operate in competition with those of Europe.

I am not informed regarding this particular industry; but I have no question that the same arguments apply here that apply to brick and cement and lumber and leather and a multitude of other things.

So far as I am concerned, if I am criticized by members of the Democratic Party for my course, I am going to stand here and do what I can to maintain American industry. If that is best done by putting a protective tariff high enough to exclude unworthy competition, I am satisfied to vote for such a tariff if we can have our industrial establishments operate and American labor given a chance to earn decent wages. That is where I stand.

Mr. BARKLEY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from New York yield to the Senator from Kentucky?

Mr. COPELAND. I yield.

Mr. BARKLEY. The Senator from New York is a fair man. I should like to inquire of him whether he believes that it is economically sound to base a permanent tariff law on temporarily depressed conditions, which may be relieved within a space of time not one-tenth as long as the life of the tariff which we enact. And, if that is true, what will be the effect upon the great masses of the American people when normal conditions are restored, and they find that the tariff rates which have been enacted under the stimulus of a temporary depression are still in force and effect?

Mr. COPELAND. Mr. President, there never will be another tariff bill made the way this one has been made. We are going to modify our tariffs piecemeal hereafter. We are going to take one item at a time. There never will be another general revision of the tariff; and this one ought not to have been undertaken by the Congress. It was a very unwise thing, in my opinion, to have this general revision. However, let not my friend be disturbed. It will be a number of years before we are back to a normal condition in America.

We are not dealing with a temporary thing. We are not dealing with something that is going to be over in 60 days! It will not be over in several years. It is going to be a long, long time before we are back to normal conditions. Whether we are passing a tariff bill to cover a temporary condition or for a period of years, we have no business to open the doors to the importation of cheaply made articles from Europe, to the destruction of employment in the United States of America.

That is where I stand on that matter; and I am going to vote for such tariffs as, in my judgment, will give employment to American labor.

If that question is involved in connection with this amendment, I am going to vote for a tariff upon tiles. I want to see the men and women of America who must toil with their hands have a place where they can work. In my opinion—it may not be worth much—but, in my opinion, we must make the tariff barrier high enough so that we may be sure that our industries are operated; and I trust that any amendment seeking to lower this rate, if it promises to bring unemployment and to destroy the industry, will be defeated.

The PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from South Dakota [Mr. McMASTER].

Mr. McMASTER. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. WALSH of Montana. I suggest the absence of a quorum.

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

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

Allen	George	Jones	Robsion, Ky.
Baird	Glass	Kean	Schall
Barkley	Glenn	Kendrick	Sheppard
Bingham	Goff	Keyes	Shortridge
Black	Goldsborough	McCulloch	Smoot
Blaine	Grundy	McMaster	Steck
Blease	Hale	McNary	Swanson
Bratton	Harris	Metcalf	Thomas, Idaho
Brookhart	Harrison	Moses	Townsend
Broussard	Hatfield	Norbeck	Trammell
Capper	Hawes	Norris	Vandenberg
Connally	Hayden	Oddie	Walcott
Copeland	Hebert	Phipps	Walsh, Mass.
Dale	Heflin	Pine	Walsh, Mont.
Fess	Howell	Pittman	Watson
Fletcher	Johnson	Robinson, Ind.	

The PRESIDENT pro tempore. Sixty-three Senators have answered to their names. A quorum is present. The question is on agreeing to the amendment proposed by the Senator from South Dakota.

Mr. McMASTER. I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. BINGHAM (when his name was called). I have a nontransferable pair with the junior Senator from Virginia [Mr. GLASS]. In his absence I withhold my vote. Were I permitted to vote, I would vote "nay."

Mr. GOLDSBOROUGH (when his name was called). On this vote I have a pair with the senior Senator from Wisconsin [Mr. LA FOLLETTE]. If he were present, he would vote "yea." If I were permitted to vote, I would vote "nay."

Mr. METCALF (when his name was called). I have a general pair with the Senator from Maryland [Mr. TYDINGS]. If I were permitted to vote, I would vote "nay."

Mr. ROBINSON of Indiana (when his name was called). I have a general pair with the junior Senator from Mississippi [Mr. STEPHENS]. In his absence, not knowing how he would vote, I withhold my vote. If permitted to vote, I would vote "nay."

Mr. TOWNSEND (when his name was called). On this vote I have a pair with the senior Senator from Tennessee [Mr. MCKELLAR]. In his absence I withhold my vote. If I were permitted to vote, I would vote "nay."

Mr. WATSON (when his name was called). I have a general pair with the senior Senator from South Carolina [Mr. SMITH]. I transfer that pair to the junior Senator from Colorado [Mr. WATERMAN] and vote "nay."

The roll call was concluded.

Mr. BLEASE. I have a pair with the junior Senator from Oregon [Mr. STEIWER]. I transfer that pair to the senior Senator from Arizona [Mr. ASHURST] and vote "yea."

Mr. SHEPPARD. I desire to announce that the junior Senator from Oklahoma [Mr. THOMAS] has a pair on this question with the senior Senator from Louisiana [Mr. RANSDELL].

Mr. FESS. I desire to announce the following general pairs:

The Senator from Massachusetts [Mr. GILLETT] with the Senator from North Carolina [Mr. SIMMONS];

The Senator from Illinois [Mr. DENEEN] with the Senator from North Carolina [Mr. OVERMAN];

The Senator from Wyoming [Mr. SULLIVAN] with the Senator from Tennessee [Mr. BROCK];

The Senator from Maine [Mr. GOULD] with the Senator from Utah [Mr. KING];

The Senator from Pennsylvania [Mr. REED] with the Senator from Arkansas [Mr. ROBINSON];

The Senator from Vermont [Mr. GREENE] with the Senator from Arkansas [Mr. CARAWAY];

The Senator from Idaho [Mr. THOMAS] with the Senator from Montana [Mr. WHEELER]; and

The Senator from Missouri [Mr. PATTERSON] with the Senator from New York [Mr. WAGNER].

Mr. FRAZIER. My colleague [Mr. NYE] is unavoidably absent. If present, he would vote "yea."

The result was announced—yeas 28, nays 30, as follows:

YEAS—28

Barkley	Cutting	Hawes	Schall
Black	Dill	Hayden	Sheppard
Blaine	Fletcher	Heflin	Steck
Blease	Frazier	Howell	Swanson
Bratton	George	McMaster	Trammell
Brookhart	Harris	Norbeck	Walsh, Mass.
Connally	Harrison	Norris	Walsh, Mont.

NAYS—30

Allen	Grundy	Kendrick	Robsion, Ky.
Baird	Hale	Keyes	Shortridge
Capper	Hastings	McCulloch	Smoot
Copeland	Hatfield	Moses	Vandenberg
Dale	Hebert	Oddie	Walcott
Fess	Johnson	Phipps	Watson
Glenn	Jones	Pine	
Goff	Kean	Pittman	

NOT VOTING—38

Ashurst	Goldsborough	Patterson	Sullivan
Bingham	Gould	Ransdell	Thomas, Idaho
Borah	Greene	Reed	Thomas, Okla.
Brock	King	Robinson, Ark.	Townsend
Broussard	La Follette	Robinson, Ind.	Tydings
Caraway	McKellar	Shipstead	Wagner
Couzens	McNary	Simmons	Waterman
Deneen	Metcalf	Smith	Wheeler
Gillett	Nye	Steiwer	
Glass	Overman	Stephens	

So Mr. MCMASTER's amendment was rejected.

Mr. SMOOT. I desire to offer an amendment.

The PRESIDENT pro tempore. There is still an amendment pending offered by the Senator from South Dakota [Mr. MCMASTER].

Mr. MCMASTER. I understand the Senator from West Virginia has an amendment that he desires to offer. I am willing to put action on my amendment off until to-morrow.

Mr. SMOOT. Mr. President, I send an amendment to the desk which I desire to offer.

The PRESIDENT pro tempore. The amendment will be reported for the information of the Senate.

The CHIEF CLERK. The Senator from Utah offers the following amendment: On page 38, line 7, strike out "or" the second time it occurs and insert the word "and."

The amendment was agreed to.

The CHIEF CLERK. The Senator from Utah offers the same amendment in the Kendrick amendment, in line 10.

The amendment was agreed to.

Mr. KEAN. Mr. President, I offer the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The CHIEF CLERK. The Senator from New Jersey offers the following amendment: On page 279, line 2, to strike out "$15" and insert in lieu thereof "$25."

The PRESIDENT pro tempore. The amendment is not in order under the agreement under which the Senate is proceeding.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House further insisted upon its disagreement to the amendments of the Senate Nos. 23, 46, and 47 to the bill (H. R. 9979) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1930, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1930, and June 30, 1931, and for other purposes; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. WOOD, Mr. CRAMTON, Mr. WASON, Mr. BYRNS, and Mr. BUCHANAN were appointed managers on the part of the House at the further conference.

ENROLLED JOINT RESOLUTIONS SIGNED

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

S. J. Res. 69. Joint resolution authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, Edmundo Valdez Murillo, a citizen of Ecuador;

S. J. Res. 72. Joint resolution authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, two citizens of Honduras, namely, Vicente Mejia and Antonio Inestroza;

S. J. Res. 100. Joint resolution authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, Godofredo Arrieta A., jr., a citizen of Salvador; and

S. J. Res. 107. Joint resolution authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, Señor Guillermo Gomez, a citizen of Colombia.

ADDITIONAL AMENDMENTS TO THE TARIFF BILL

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

(Par. 1537 (b).) On page 231, line 24, after the semicolon, insert "floor coverings wholly or in chief value of sponge rubber, 25 per cent ad valorem."

On page 269, after line 3, insert:

"PAR. —. Sponge rubber, in blocks not exceeding 120 millimeters by 80 millimeters by 35 millimeters in dimension, colored or uncolored, to be used in the manufacture of soap dishes."

Mr. HAYDEN submitted an amendment intended to be proposed by him to House bill 2667, the tariff revision bill, which was ordered to lie on the table and to be printed:

On page 201, strike out line 4 and insert:

"PAR. 1501. (a) Asbestos, unmanufactured, asbestos crudes, and asbestos fibers, any of the foregoing valued at more than $200 per ton, $12 per ton and 2 per cent ad valorem.

"(b) Yarns, slivers, rovings, wick, rope."

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

(Par. 505.) On page 122, strike out line 19 and insert in lieu thereof the following: "lactose, and other saccharides, valued at more than $1 per pound, 50 per cent ad valorem; the foregoing when valued at less than $1 per pound, 25 per cent ad valorem."

(Par. 736.) On page 134, line 12, after the word "brine," insert "and frozen blueberries."

On page 279, line 2, after the word "at," to strike out "$15" and insert "$25," so as to make the paragraph read:

"PAR. 1811. Works of art, productions of American artists residing temporarily abroad, or other works of art, including pictorial paintings on glass, imported expressly for presentation to a national institution or to any State or municipal corporation or incorporated religious society, college, or other public institution, including stained or painted window glass or stained or painted glass windows which are works of art when imported to be used in houses of worship, valued at $25 or more per square foot, and excluding any article, in whole or in part,

molded, cast, or mechanically wrought from metal within 20 years prior to importation; but such exemption shall be subject to such regulations as the Secretary of the Treasurer may prescribe."

ARTICLE BY SENATOR NYE ON "BACKWARD STATES"

Mr. NORRIS. Mr. President, in the North American Review for April, 1930, there is an article by the junior Senator from North Dakota [Mr. NYE] entitled "Speaking of Backward States." I ask unanimous consent that it may be printed in the CONGRESSIONAL RECORD.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The article is as follows:

SPEAKING OF BACKWARD STATES

By GERALD P. NYE, United States Senator from North Dakota

ONE OF THE LEGISLATORS FROM THE WEST WHOM THE NEW SENATOR GRUNDY ADVISED TO "TALK DARN SMALL" ON IMPORTANT MATTERS LIKE THE TARIFF, REPLIES IN KIND

We have heard a great deal of late concerning "backward States" and supposedly "backward" statesmen. In his testimony before the Senate lobby committee JOSEPH R. GRUNDY, now the junior United States Senator from Pennsylvania, expounded the philosophy that our Union should consist of a sort of hierarchy of States in which some should enjoy greater power than others in the national councils. The corollary of this proposal was that representatives of the lesser Commonwealths should be seen and not heard, or heard less frequently, than their colleagues at Washington. The votes and the voice, if I understand Mr. GRUNDY correctly, should rest in the East in perpetuo. Indeed, he gave us specifications of his revised map of the United States by characterizing the Western States as "backward" and suggesting that their spokesmen in Congress should talk "darn small."

Deferring for the moment any discussion of the merits of this proposal, let me note that it does not possess even the appeal of novelty. It was advanced as long ago as 1787, when the delegates to the Federal Convention at Philadelphia for the formation of the Union were framing the structure of our National Government. Moreover, it was proposed by a Pennsylvanian, and I believe it reflected then as well as now the parochial attitude which this State's national representatives have always assumed toward governmental affairs.

Mr. GRUNDY'S suggestions before the lobby committee were simply a paraphrase of ideas enunciated by Gouverneur Morris before the founding fathers. Objecting to the report favoring an apportionment of one Member of the "first," or lower, House, to every 40,000 inhabitants, Mr. Morris made a plea for a representative system based upon property qualifications. He asserted that "property was the main object of society," and his subsequent argument is recorded in the original documents in the following indirect manner:

"If property, then, was the main object of government, certainly it ought to be the one measure of the influence due to those who were to be affected by the Government. He looked forward also to that range of new States which would soon be formed in the West. He thought the rule of representation ought to be so fixed as to secure to the Atlantic States a prevalence in the national councils. The new States will know less of the public interest than these, will have an interest in many respects different, in particular will be less scrupulous of involving the community in wars, the burdens and operations of which would fall chiefly on the maritime States. Provision ought, therefore, to be made to prevent the maritime States from being hereafter outvoted by them. He thought this might easily be done by irrevocably fixing the number of representatives which the Atlantic States should respectively have and the number which each new State would have."

There, to my mind, spoke the historic voice of Pennsylvania, expressing a selfish and sectional policy of rule or ruin. Mr. GRUNDY, it appears, was only seeking to undo the damage which, in his estimate, the men who made this Nation committed so many decades ago. Moreover, it requires but a casual perusal of our history to discover that this same narrow viewpoint has animated most of the representatives from Pennsylvania, whether they labored inside or outside congressional halls to gain their ends. Had this philosophy prevailed in 1787, or did it prevail now, "the more perfect Union" would still be no more than a preamble.

Let us assume, however, that this thesis has some substance, and that "backward States" should occupy a subordinate place. We are then confronted with the task of defining what constitutes "backwardness." Shall the test be property, as Messrs. Morris and GRUNDY contended? There is, in my opinion, a finer test. A State which asks an exalted place in the Union must have demonstrated that it can, and will, use it in an exalted manner. In that light let us examine the pretension to power put forth by a man whose right to his views I respect even while I repudiate their content. The record, I may add, convinces me that these claims on behalf of Pennsylvania are premature, if not presumptuous.

I do not contend that Mr. GRUNDY'S State has not exerted a great influence in national affairs. Quite the contrary. The Pennsylvania dynasty, as it may be correctly called, has occupied high places at Washington since Henry Knox served as Washington's Secretary of War. Other Pennsylvania names which loom large in our annals from then almost to the present day are those of Nicholas Biddle, Thaddeus Stevens, Simon and J. Donald Cameron, President Buchanan, Matthew S. Quay, Boies Penrose, Philander C. Knox, and the Vare brothers. With the possible exception of the two Knoxes, it is still a question whether any of these men will be ranked by history in the rôle of statesmen. In fact, it is my conviction that the future historian will declare them to have been lacking in vision and wisdom, and most certainly they will be found to have been deficient in a thorough and sympathetic understanding of what was best for the Nation as a whole. Their first thought, and frequently their only one, the record reveals, was the interest of the financiers, the politicians, the industrialists of their own State.

Henry Knox's association with the marplots who conspired against Washington is too well known to require retelling. Biddle's attempt to establish a financial oligarchy through control of the United States Bank, together with his efforts to cajole or dominate powerful politicians through extension or curtailment of credit, forms an unpleasant chapter of our early history.

In the late thirties we reach the rise of the "Cameron dynasty"—a phase of Pennsylvania politics to which, for some unexplainable reason, the historians have given kind neglect. With the Camerons we see the flowering of the system of controlled elections, purchased offices, an apathy among the electorate that prevails to-day, corruption of electoral bodies, the insistence upon exorbitant and indecent tariffs, and the sending of spokesmen rather than statesmen to Washington. For 30 years Simon Cameron's influence in Pennsylvania is said to have been greater than any single individual's since the day of William Penn. The elder Cameron's reign was carried on by his son, J. Donald, and in view of their prominence from 1838 to 1878, an examination of their dubious contribution to the Nation's welfare is, to put it charitably, interesting. The evil they did lives after them.

Simon Cameron began his public career as a Federal commissioner empowered to distribute $100,000 to the Winnebago Indians for lands which they had ceded to the Government. The red men, however, received a few thousand dollars in notes issued by Cameron's bank in Pennsylvania, and the balance found its way into the hands of unscrupulous attorneys and trustees. Though the War Department declined to sanction such a shameful transaction, this rebuke in no wise discouraged Cameron. With the newspapers openly charging bribery, he was elected to the Senate by the legislature. Despite this record he was advanced as the State's candidate for the Presidency in 1860. Although a national crisis was known to be approaching, Pennsylvania deemed him a fit man for the White House! In return for throwing his support to Lincoln at the convention, Cameron was made Secretary of War. In this office he again demonstrated his unfitness and untrustworthiness. Even in the critical years of the Civil War he parceled out military contracts to Pennsylvania favorites. For these and other offenses Cameron was formally censured by a Republican House of Representatives and forced to give up his Cabinet post. Nevertheless, the notorious "Harrisburg gang," then operating at the same old stand and in the same old way, elected him to the Senate in 1867 and again in 1872.

Simon Cameron's chief claim to permanent fame, I believe, rests in his characterization of a politician as "one who, when he is bought, will stay bought," although he won contemporaneous notoriety by his reference to curious newspaper correspondents as "them damn lite'ry fellers."

J. Donald Cameron, whose advancement was due solely to his father's purchase and ownership of a corrupt political machine, became Secretary of War under President Grant. It was the younger Cameron who quartered the Regular Army on South Carolina and Louisiana in order that their electoral votes might be counted for Hayes over Tilden, and the former's election to the Presidency be insured. Even despite this claim on the new administration, President Hayes, to his credit, spurned the suggestion that Donald be continued in the Cabinet.

Next in the historical line stands Thaddeus Stevens, whose personal integrity was quite offset by his sectional spirit and his vengeful attitude toward the tremendous problems of reconstruction days. Though I credit him with sincerity in his anti-Southern sentiment, there is plentiful evidence in his speeches that his prejudice may have arisen from the realization that slave labor was free, whereas Pennsylvania manufacturers had to pay their industrial slaves. There was, I am convinced, an economic as well as a philosophic side to his abolition beliefs. So it is but natural to hear him assailing the kindly and generous terms extended to Robert E. Lee at Appomattox, and to see him dedicating himself to a vendetta against the vanquished.

North and South have long since been reconciled, yet I dare venture to say that we have not wholly recovered from the effects of this Pennvanian's malice. It was he who inspired the fight against the sane and statesmanlike reconstruction program carried out by Andrew Johnson as Lincoln's legatee. The Pennsylvanian's theory was that the South should be treated as a foreign and conquered foe, its leaders punished as criminals, and their property confiscated. Shamelessly he admitted that his purpose was to insure Republican control below the Mason and Dixon line.

With the notorious "Pig Iron" Kelley as his aide, Stevens took advantage of the chaos of the period to increase duties on his State's products to unprecedented proportions. Personally interested in pig iron, Stevens, as chairman of the House Ways and Means Committee, looked after his own much as his successors do now. Long before present-day Pennsylvanians saw fit to characterize advocates of a more equitable tariff as "worse than communists," Stevens was referring to them as "quacks." His associate, "Pig Iron" Kelley, was, unfortunately, deeply involved in the Credit Mobilier scandal, which was the Teapot Dome outrage of that day. Although other legislators sought to conceal or explain their acceptance of railroad bribes, "Pig Iron" remained true to Pennsylvania traditions. He declared, in short, that his corrupt purchase of railroad stock was "just like buying a flock of sheep." How history repeats! It seems that I have heard a similar characterization applied to the excessive and illegal campaign funds spent in the Vare-Pepper primary campaign of 1926. If I mistake not, it was Secretary Mellon who pooh-poohed these expenditures and added that "it was just like giving to a church."

Before passing from the historical comparison, let us compare the representatives of Pennsylvania and such a "backward State" as Iowa since the Civil War. Eliminating sitting Senators for obvious reasons, we find the roster to be as follows: Pennsylvania—Edgar Cowan, Charles Buckalew, Simon Cameron, John Scott, William Wallace, John I. Mitchell, Donald Cameron, Matthew S. Quay, Boies Penrose, Philander C. Knox, George T. Oliver, George W. Pepper, and William E. Crow. Iowa—James W. Grimes, James Harlan, James B. Howell, Samuel J. Kirkwood, George Wright, William B. Allison, James McDill, James F. Wilson, John H. Gear, Albert B. Cummins, John P. Dolliver, Lafayette Young, William S. Kenyon, and Charles A. Rawson.

In the estimate of the New York World, only one name in the Pennsylvania list rises to the level of a statesman—Knox. Four were bosses of a school which is, we hope, vanishing—the Camerons, Quay, and Penrose. The rest are mediocrities, in the World's opinion.

In the Iowa roll call there are at least five who have displayed some of the qualities of the statesman. There was Grimes, who was borne into the Senate Chamber on a stretcher that he might vote against the impeachment of Johnson. There was, also, among the five, James Harlan, who served not only as Senator but admirably as Cabinet member. There were the three progressives—Dolliver, Cummins, and Kenyon. As the World said editorially, "The 'backward' State has decidedly the best of it in its contributions to national leadership—and it has never had a Vare case."

So much for the kind of influence which Pennsylvania's historic figures have wielded at Washington. I think it will be accepted by impartial students that this record reveals no reason why that State should, as Mr. GRUNDY has suggested, be accorded greater power in national councils.

It may be, however, that these men misrepresented their State. It may be that Pennsylvania to-day ranks high among the educational advantages it furnishes to its citizens, and that we may anticipate better things when present generations come of voting and officeholding age. Perhaps there is less illiteracy among the foreign-born and native Americans than in our "backward States." It may be that distribution of wealth is more equitable than in our western communities.

I am afraid, however, that Mr. GRUNDY was not thinking of vital statistics or the things that reflect real riches when he advanced his ideas before the lobby committee. For I find that most of the "backward States" do these things better. School attendance figures for 1920, which are the latest available, provide an illuminating basis of comparison. Here are the percentages of children from 5 to 17 years of age attending elementary or secondary schools, both public and private, in Pennsylvania and in some of the so-called barbarous Commonwealths: Pennsylvania, 71.5; North Dakota, 84.6; South Dakota, 82.9; Iowa, 86.1; Nebraska, 90.5; Idaho, 94.8; Kansas, 87.9; Montana, 92.2; Colorado, 95. It may be argued that Pennsylvania's large number of foreign-born account for the comparatively low percentage of school goers. The illiteracy statistics, however, do not support such a contention. Counting only native whites, the illiteracy figures are as follows: Pennsylvania, 0.8; North Dakota, 0.4; South Dakota, 0.4; Iowa, 0.5; Nebraska, 0.4; Idaho, 0.3; Kansas, 0.6; Montana, 0.4. For the total population, native and foreign born, the illiteracy percentages are: Pennsylvania, 4.6; North Dakota, 2.1; South Dakota, 1.7; Iowa, 1.8; Nebraska, 1.4; Idaho, 1.5; Kansas, 1.6; Montana, 2.3.

If a State's wealth be the measure of its greatness, I am sure that Mr. GRUNDY would be surprised at figures bearing on this factor. I believe he will agree with me that it is not total wealth which furnishes a true index of a Commonwealth's condition so much as per capita distribution. It is almost axiomatic that no State or nation of modern or ancient times has grown or remained powerful when there were sharp extremes of poverty and wealth, since that connotes social and economic feudalism. Yet these are the conditions we find in Pennsylvania—coal and steel barons at one extreme and serfdom for the toilers in the mines and mills at the other. In this connection, it is interesting to compare statistics on per capita distribution of wealth in Pennsylvania and in some of the "backward States." As of 1922, these show the following contrasts: Pennsylvania, $3,187; North Dakota, $3,692; South Dakota, $4,482; Nebraska, $4,004; Idaho, $3,301; Kansas, $3,493; Iowa, $4,274; Montana, $3,691. It is true that the West has suffered hardships of recent years, but even these were due to causes controlled by providence rather than always by plutocracy.

In view of the characterization of certain communities as "backward States" and their representatives as "worse than communists," it is worth while to study conditions in the Pennsylvania coal fields, where starvation wages, inhuman conditions of labor, the State authorities' indifference, police brutality, an uneconomic system of production, and a medieval neglect of the fundamental rights of man, combine to make life unbelievably miserable for the men, women, and children involved. These conditions persist in some degree at all times, but in more acute form during the period of recurring strikes. Only a people forced into fearful complacency through generations of debasing toil and political persecurtion would tolerate a situation in which the local and State governments, the mine operators and those present-day Cossacks, the coal and iron police, appear as accessories to wholesale assault, unlawful court proceedings and even murder.

Is there, for instance, another State in which a red-handed murderer would escape with a 2-year sentence simply because he happened to be a coal and iron policeman—sworn in by the governor but paid by the mine operators—and his innocent victim an humble and unknown miner? This happened in the John Barkoski case. Is there any official except the governor of a most "backward State" who would veto a measure designed to terminate or ameliorate these outrageous conditions? Is there, I wonder, any realization in Pennsylvania that there is such a document as the Constitution of the United States?

These, I am sorry to say, are not mere rhetorical questions. In corroboration it is only necessary to read the report of the Senatorial committee which visited the coal fields in 1928—a report which has been duplicated in numerous newspaper articles year after year and in other official documents. I might add that the committee which framed this damning indictment consisted of painstaking and conservative Members of the Senate.

"Everywhere your committee visited," reads their report, "they found victims of the coal and iron police who had been beaten up and were still carrying scars on their faces and heads from the rough treatment they had received. Your committee found evidence of more or less bootlegging in the places it visited; and in one community especially it seemed as if the morals of that community had been broken down entirely."

Little wonder! For these coal and iron police, these corporate thugs intrusted with a great State's authority and paid by private corporations, committed many foul deeds too horrible to mention. Indeed, some of the atrocities of war time seem merciful by comparison. Yet this is the State whose national spokesmen have the audacity to lecture their sovereign sisters! It would be matter for smiling were it not so tragic.

The committee also came across a communist organization which, under the guise of doing relief work, was preaching "disloyalty" and "destruction of the Government." But did the committee discover any effort to combat this communistic group? Hardly! Here is what the committee said:

"In no place did your committee find where the coal and iron police or the deputy sheriffs, though they existed in great numbers, had made any effort to curb this disloyal organization. The only efforts your committee found that had been made to rid the Pittsburgh district of these agents of the most dangerous organization this country has ever known came from the striking miners themselves.

"Your committee, indeed, was impressed with the courage and determination of the miners to stand up for what they believed was their due—an American wage making possible an American standard of living. * * * Your committee found no evidence of starvation in the Pittsburgh district, yet evidence on every hand was that the food was none too plentiful and was of necessity the cheapest that could be purchased. Your committee believes the conditions existing in the Pittsburgh district and other coal fields in the United States are of a most serious nature and dangerous to the best interest of our citizenship."

Only one comment needs to be added: Never, not even in the worst days the farmers of the "backward States" have been called upon to face, has an official committee of the United States Senate found a western Commonwealth—its State officials and national spokesmen, its leading citizens, its Cabinet members, its financial and industrial interests and its citizenry—sitting by idly and smugly while such seeds of "worse than communism" were being sown. Never has a State judge in these so-called "backward" communities issued an injunction to prevent church worship or religious assemblage in a vacant lot. Never has a "backward State" condoned, even encouraged, the official outrages which have been perpetrated on old and young, men and women, boys and girls, guilty and innocent, by the coal and iron police of Mr. GRUNDY's State of Pennsylvania. I dare say that of late years no country except Russia in its reddest and bloodiest days can duplicate such an un-American record and régime.

Politically as well as economically, Pennsylvania has much in common with the soviet dictatorship. The few are in control, the many in

thrall. I make no new charge when I say that the great financial, industrial, railroad, and commercial interests own the political organizations in Pittsburgh and Philadelphia, and these machines dominate the lives of the people, control or corrupt elections, and, in short, make a mockery of the representative system of government. There are, for instance, wards in Philadelphia which, year after year, make the same election returns and put an adding machine to shame. Voters may die or depart, according to testimony before a Senate committee by a Philadelphia election official, but their names remain on the rolls to the gain and glory of the Vare machine.

When Senator GEORGE W. NORRIS, of Nebraska, toured the State on behalf of William B. Wilson, the Democratic candidate for the Senate, he met many Pennsylvanians who protested against these conditions—bankers, business men, professional men, editors, teachers, and employers in the smaller communities. But when he urged them to take part in the campaign, even if it were only to preside at his meetings, their enthusiasm vanished. It was not that they were not sincere. They were. But they dared not let their true feelings become known lest it provoke reprisal against them by "the organization" and its local lieutenants. Thus it is clear to me that the average Pennsylvanian, despite his constitutional right to the ballot, has as much voice in the naming of his officials and framing of policies as did a vassal of the Dark Ages.

I am convinced that if the people of Pennsylvania were to be given a clear-cut choice between worth-while candidates for public office and the sort offered by the political bosses, they would seize the opportunity to dethrone those now in power. Then, and only then, will Pennsylvania emerge from a state of backwardness which, in my estimate, is equalled by no other Commonwealth.

Then, and not until then, will its spokesmen at Washington be justified in seeking greater influence in national councils. Then, and only then, will Mr. GRUNDY and his associates—or their successors—be entitled to speak of "backward States" in lofty tones or to advise us to "talk darn small."

WASHINGTON POST EDITORIALS

Mr. FESS. Mr. President, this morning there appeared in the Washington Post two leading editorials, one entitled "Southern Federal Jobs," and the other "Obscenity Barred," which I think ought to have a wider reading. I therefore ask unanimous consent that they be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

SOUTHERN FEDERAL JOBS

President Hoover's methods of handling patronage in the South apparently has the approval of everyone, except the partisan members of the Senate committee which investigated conditions. A year ago Mr. Hoover announced his intention of uprooting the disreputable elements of the Republican organization in the South, and there is every reason to believe that he has succeeded. By bringing in a report that is a year behind the times the committee contributes nothing toward improvement of conditions. Its report appears to be an unwarranted attempt to embarrass the administration.

Incidents to which the committee refers were corrected by the broad general policy adopted by President Hoover soon after he entered the White House. "Under instructions to the various departments," he says, "a system has been established by which those reprehensible practices have been absolutely stopped and the system of purchase and sale of appointments, so far as it existed, has been ended. All Federal officials known to have engaged in such practices have either resigned or been removed." A controversy between the old and new patronage organizations of South Carolina has resulted in indiscriminate charges of corruption. These are being investigated by the Department of Justice, and President Hoover can be depended upon to take any action necessary to prevent traffic in Federal offices.

The committee deviated from its general purpose to make charges against two Federal officials who are in no way connected with distribution of patronage. But these are also under scrutiny of the Department of Justice. The committee's inferences that the administration is winking at the commercialization of southern patronage are wholly unjustified.

President Hoover is anxious to build up a strong and respectable Republican organization in the South. The best interests of the party as well as those of the Southern States and the country as a whole demand that he be given support in this project. The situation can not be improved by dragging out old charges and irrelevant issues calculated to discredit the efforts of the party to set its own house in order.

OBSCENITY BARRED

The Senate, without a roll call, has restored to the tariff bill a provision excluding obscene and seditious foreign books. Senator CUTTING, champion of free and unlimited importation of foreign books, was left high and dry in the debate. His plea that classical and meritorious modern literature might be kept from America by a brutal Government censorship was shown to be fallacious. The effect of his amendment, accepted by the Senate in Committee of the Whole, would have been to open the doors of America to unspeakably vile foreign books.

It is easy to argue that the Bible, Shakespeare, and many ancient books contain matter that can be classed as "obscene," and that, therefore, a censorship against obscenity would rob the American people of the opportunity to import such works. But the argument is flimsy and sophomoric. Unadulterated and deliberately base works are written and printed abroad to be sold surreptitiously in the United States, and Congress would be merely an agent for the dissemination of immorality and sedition if it did not debar such works.

The courts, and not customs inspectors, are made final judges of the character of books seized by the Customs Service because of their apparent obscenity. This is a change for the better. That Congress would have eliminated censorship altogether was inconceivable.

RECESS

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

The motion was agreed to; and the Senate (at 9 o'clock and 55 minutes p. m.), under the order previously entered, took a recess until to-morrow, Friday, March 21, 1930, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES

THURSDAY, *March 20, 1930*

The House met at 12 o'clock noon.

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

O Thou who dwellest in eternal light, give us power of will to forsake the dark things of mind, the masters of evil appetite, and the spirit of hate. Create in us that type of manhood that is religious, spiritualized, strong, and well balanced. O endow us with that personal force that shall give dignity to our station, steadiness and safety to the Republic. Clothe us with that inner strength that shall direct us to do our best, and breed in us that self-control and diligence and those other virtues which the idle and the negligent never cultivate. When the path of duty is a long road, the hill steep, and the valley forbidden, O remember us in the name of everlasting love. Amen.

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate further insists upon its amendments Nos. 23, 46, and 47 to the bill (H. R. 9979) entitled "An act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1930, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1930, and June 30, 1931, and for other purposes," disagreed to by the House; asks a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JONES, Mr. HALE, Mr. PHIPPS, Mr. OVERMAN, and Mr. GLASS to be the conferees on the part of the Senate.

CONFERENCE REPORT—FIRST DEFICIENCY BILL

Mr. WOOD. Mr. Speaker, I move to take from the Speaker's table the bill (H. R. 9979) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1930, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1930, and June 30, 1931, and for other purposes, adhere to the disagreement of the House to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. The Clerk will report the bill.

The Clerk read the title of the bill.

Mr. GARNER. Mr. Speaker, may I ask the gentleman if his motion is agreeable to Mr. BYRNS and Mr. BUCHANAN, the Democratic conferees?

Mr. WOOD. Yes. I will say that I talked to them about it yesterday.

The SPEAKER. The question is on the motion of the gentleman from Indiana.

The motion was agreed to.

The Chair appointed the following conferees: Messrs. WOOD, CRAMTON, WASON, BYRNS, and BUCHANAN.

PERMISSION TO ADDRESS THE HOUSE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent to address the House for four minutes.

The SPEAKER. The gentleman from Nebraska [Mr. HOWARD] asks unanimous consent to proceed for four minutes. Is there objection?

Mr. SNELL. Mr. Speaker, reserving the right to object, and I dislike to object, but several other persons have asked to go on to-day and I have decided we should protect the bus bill and get it passed or disposed of. I therefore object for the present.

EXTENSION OF REMARKS

Mr. HOWARD. Then I ask unanimous consent to extend my remarks by incorporating in the RECORD a petition to this Congress by a class of people who have no other voice than through their Representatives here a petition from the tribal council of my Omaha Indians.

The SPEAKER. The gentleman from Nebraska [Mr. HOWARD] asks unanimous consent to extend his remarks by printing a petition from an Indian tribal council.

Mr. UNDERHILL. Reserving the right to object, the proper place for that petition is to go to the appropriate committee. I must object.

Mr. HOWARD. Mr. Speaker, I yield, of course, to the objection; but I deny the right of the gentleman from Massachusetts [Mr. UNDERHILL] to educate me, he being uninformed.

THE TARIFF BILL

The SPEAKER. Under the order of the House the Chair recognizes the gentleman from Texas [Mr. GARNER] for the first of his two speeches.

Mr. GARNER. Mr. Speaker and Members of the House, I asked for this time to-day in view of the fact that it has become our custom to engage time a week ahead, so that in an ordinary case, needing some explanation to the House of Representatives, there is no opportunity to do as we have done before, to rise and ask unanimous consent to address the House for 10 or 15, or even 30 minutes.

When I asked for this time I had hoped and believed, from conversations with leaders of the Senate, that the tariff bill would be passed last night. I think it was their intention to close it not later than last night, and I wanted an opportunity then to talk to the House and see if I could reason with some of the brethren on the left, the Republicans, as to what they should do with the tariff bill after it came back from the Senate. I am going to take advantage of it this morning to address myself to both sides of the House.

The bill will probably come over from the Senate the latter part of this week, and the question is, what is the House of Representatives going to do with it. Mr. HAWLEY asked me this morning in a very innocent way: "Are you going to object to sending it to conference?"

I told him I certainly was.

Ordinarily, under the rules of the House of Representatives, when a bill comes back from the Senate, the Speaker of the House sends it to the proper committee, which in this case would be the Ways and Means Committee, in order that the committee may consider the amendments. But under the practice, many bills are called up when the Senate puts amendments on them and they are sent to conference by unanimous consent. Sometimes rules are brought in for the purpose of sending bills to conference. I imagine that in this instance a rule will be brought in; that the gentleman from New York [Mr. SNELL] will be called upon to draw a rule in which he will disagree to 1,500 or 2,000 amendments placed on by the Senate, and send the tariff bill to conference.

Mr. SNELL. Will the gentleman yield?

Mr. GARNER. I yield.

Mr. SNELL. The gentleman has had long experience in the House. When did they ever do any differently in handling a tariff bill in the House, either under a Democratic or Republican administration?

Mr. GARNER. I do not know that I am familiar with it.

Mr. SNELL. The gentleman is fairly familiar with it.

Mr. GARNER. I do not care what the precedents are. There never has been one drawn that is just like this one. That much must be said.

Mr. RAMSEYER. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. RAMSEYER. Before the Civil War——

Mr. SNELL. I do not believe the gentleman from Texas [Mr. GARNER] was here before the Civil War.

Mr. RAMSEYER. I supposed the gentleman from Texas [Mr. GARNER] had made a study of this, as I have. Before the Civil War the universal practice, or, rather, the quite general practice, on both tax and tariff bills and also on appropriation bills, was to consider the amendments of the other body in the Committee of the Whole before sending it to conference.

Mr. GARNER. I am a little surprised at my friend from Iowa, for I understand he served on the Committee on Rules. Is that correct?

Mr. RAMSEYER. Yes. I served there for nearly four years.

Mr. GARNER. I am surprised to think you could be asking the gentleman from New York [Mr. SNELL] if he wanted information. He does not want any information.

Mr. RAMSEYER. The gentleman from Texas [Mr. GARNER] wanted information, or pleaded ignorance on the matter, and I am trying to supply him with information.

Mr. GARNER. What the gentleman from New York [Mr. SNELL] wants to know is what the bosses want him to do. He generally finds out at an early date, being one of them, and that is all the information the gentleman wants.

But I thought I might talk to some of those on the Republican side of the House and see if we could not arrive at a conclusion to give some thought and deliberation to the tariff bill. I am looking into the faces of men and women who have not had one thing to do with the passage of this legislation. You did not have anything to do with it. The gentleman from Washington [Mr. JOHNSON] smiles. The gentleman did not have anything to do with it.

Mr. JOHNSON of Washington. I was wondering if the gentleman was not looking at the gentleman from Oregon [Mr. HAWLEY].

Mr. GARNER. The gentleman, however, usually follows the gentleman from Oregon [Mr. HAWLEY].

Mr. JOHNSON of Washington. Gladly.

Mr. GARNER. That still confirms what I say.

The gentleman did not have anything to do with it when the bill passed the House. All the gentleman did was to follow.

Mr. JOHNSON of Washington. Not quite.

Mr. GARNER. That is all you did. Now, this House has never given consideration to this tariff legislation. Do you want to consider it in any way?

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. GARNER. Not until I finish. I am not going to get into any controversy with the gentleman as to whether he is a leader or a follower.

Mr. JOHNSON of Washington. I wonder if the gentleman will not let me wait until the other body reaches a decision as to the lumber and shingle tariffs.

Mr. GARNER. I know the gentleman is a leader on lumber and a follower on everything else, if you will give him a little duty on lumber.

Do you people on this side of the Chamber desire to give any consideration to the various schedules in the tariff bill? Remember you will have no opportunity except in the House of Representatives. When it comes back from the Senate, if you vote to send it to conference, your opportunity is gone, because then you commit this piece of legislation to the three Republican ranking members on the Ways and Means Committee, who with 12 other Republicans made it up in the House, and these three Republicans will be your representatives and your spokesmen, and you will have no opportunity to consider for a moment any amendment or any schedule placed in the tariff bill by the Senate of the United States.

Mr. BACHARACH. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. BACHARACH. If we did take it up in the Committee of the Whole, I wonder how long the gentleman from Texas thinks it would take us to consider all of those 1,500 amendments.

Mr. GARNER. I will tell the gentleman, who seems to be short on information, something. Here is what I would do if I had my way: I would not take it through all the vicissitudes of considering each amendment under the rules of the House of Representatives, although that is the most desirable way to do it; I realize that time is one of the essential elements in the consideration of this piece of legislation just now. When it comes back on the floor of the House of Representatives I would consider it by schedules. I would give 10 minutes on a side for debate on each schedule, and if you did that you would consider it intelligently and pass the bill within two days. Are you willing to do it?

Mr. BACHARACH. With only 10 minutes of debate on every schedule?

Mr. GARNER. I would be willing to take more time if you would give it to me, but I am trying to comply with your rules. However, that procedure would give me a chance, and all of us a chance, to vote on the amendments to the tariff bill and the rates put in by the Senate under each schedule.

Now, what are those amendments and what are those rates? I am going to give them to you briefly. I have in my hand, and I will insert in the RECORD, a letter from the chairman of the

Tariff Commission, sent to me at 10 o'clock this morning, giving me the latest figures of the Tariff Commission on these various schedules. Mr. Speaker, I ask unanimous consent to put these in the RECORD, in addition to some comparisons I have made myself.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

UNITED STATES TARIFF COMMISSION,
Washington, March 19, 1930.

Hon. JOHN N. GARNER,
House of Representatives, Washington, D. C.

MY DEAR MR. GARNER: I am returning herewith your copy of Senate Document No. 30, Comparison of Rates of Duty in the Pending Tariff Bill of 1929 with the Tariff Act of 1913 and the Tariff Act of 1922. At a request received this morning from the minority clerk of the Committee on Ways and Means, Mr. Walter L. Price, we have inserted on page 3 a revised summary of the data for each of the tariff schedules. This revised copy contains, in addition to the information shown in the printed copy for the Senate Committee of the Whole and the Senate, the computed duties on the basis of 1928 imports and the actual or equivalent ad valorem rates. The data for the Senate incorporate all changes made by the Senate up to and including March 13, 1930.

These figures are preliminary, although they are considered to be fairly accurate.

Very truly yours,

E. B. BROSSARD, *Chairman.*

Summary by schedules of rates of duty in the tariff act of 1913, the tariff act of 1922, and bill H. R. 2667 as passed by the House of Representatives and as reported to the Senate by the Finance Committee with subsequent changes by the Senate Committee of the Whole, and as further agreed to by the Senate up to and including March 13, 1930—Schedules 1 to 15

Schedule	Article	Value of imports, calendar year 1928	Computed duties on 1928 imports						Actual or computed ad valorem rates					
			Act of 1913	Act of 1922	H. R. 2667				Act of 1913	Act of 1922	H. R. 2667			
					As passed the House of Representatives	As reported by Senate Finance Committee	As agreed to by Senate Committee of the Whole	As agreed to by the Senate up to Mar. 13, 1930			As passed the House of Representatives	As reported by Senate Finance Committee	As agreed to by Senate Committee of the Whole	As agreed to by the Senate up to Mar. 13, 1930
									P. ct.	P. ct.	P. ct.	P. ct.	P. ct.	P. ct.
1	Chemicals, oils, and paints	$94,909,666	$15,402,669	$27,688,949	$30,466,224	$28,119,435	$29,022,092	$28,970,353	16.23	29.17	32.10	29.63	30.58	30.52
2	Earths, earthenware, and glassware	56,521,947	18,000,225	25,567,147	30,776,372	29,924,652	27,297,175	29,654,814	31.85	45.23	54.45	52.94	48.29	52.47
3	Metals and manufactures of	118,658,110	16,987,338	40,004,372	43,118,528	34,941,479	38,407,195	38,754,924	14.32	33.71	36.34	29.45	32.37	32.66
4	Wood and manufactures of	26,453,184	1,771,196	4,191,356	6,702,169	4,141,108	4,118,606	4,139,242	6.70	15.85	25.34	15.66	15.57	15.65
5	Sugar, molasses, and manufactures of	174,759,643	68,550,633	118,872,109	161,405,190	148,100,786	119,212,001	134,843,827	39.23	67.85	92.36	84.75	68.21	77.16
6	Tobacco and manufactures of	62,318,624	37,804,801	39,314,791	41,729,431	39,314,791	39,314,791	39,314,791	60.66	63.09	66.96	63.09	63.09	63.09
7	Agricultural products and provisions	266,792,553	26,249,569	59,686,019	88,981,576	86,429,586	95,597,728	95,804,790	9.84	22.37	33.35	32.40	35.83	35.91
8	Spirits, wines, and other beverages	1,433,616	366,198	523,045	680,069	680,069	680,069	680,069	25.54	36.48	47.44	47.44	47.44	47.44
9	Manufactures of cotton	49,463,049	15,097,002	19,916,340	21,557,444	21,557,036	18,870,585	18,870,585	30.52	40.26	43.58	43.58	38.15	38.15
10	Flax, hemp, jute, and manufactures of	133,207,491	13,403,944	24,191,702	25,284,930	25,724,740	26,167,622	25,433,528	10.22	18.44	19.27	19.31	19.64	18.97
11	Wool and manufactures of	115,180,986	23,923,150	57,171,665	66,886,360	65,468,100	65,752,262	65,752,262	20.77	49.64	58.07	56.84	57.09	57.09
12	Manufactures of silk	32,440,182	15,038,217	18,348,161	19,518,180	20,256,955	18,825,189	18,825,189	46.36	56.56	60.17	62.44	58.03	58.03
13	Manufactures of rayon	11,425,596	3,928,913	6,019,359	6,065,431	6,157,202	6,145,719	6,133,708	34.39	52.68	53.09	53.89	53.79	53.68
14	Paper and books	20,345,158	4,408,264	4,986,391	5,317,439	5,315,286	5,214,023	5,271,588	21.67	24.51	26.14	26.13	25.63	25.91
15	Sundries	316,695,350	51,441,872	66,455,927	90,440,519	83,976,993	66,121,799	66,121,799	16.24	20.98	28.56	26.52	20.88	20.88
	Total, comparable items	1,480,605,155	312,373,991	512,637,333	638,929,862	600,108,218	560,746,856	578,571,469	21.10	34.62	43.15	40.53	37.87	39.08

Summary by schedules of actual or computed ad valorem rates of duty in the tariff bill, H. R. 2667, as passed by the House of Representatives and as agreed to by the Senate up to and including March 13, 1930

Title	Per cent		Senate changes, per cent		Relation of Senate changes to House bill, per cent	
	House	Senate	Increase	Decrease	Increase	Decrease
1. Chemicals, oils, and paints	32.10	30.52		1.58		4.9
2. Earths, earthenware, and glassware	54.45	52.47		1.98		3.6
3. Metals and manufactures of	36.34	32.66		3.68		10.0
4. Wood and manufactures of	25.34	15.65		9.69		38.0
5. Sugar, molasses, and manufactures of	92.36	77.16		15.20		16.4
6. Tobacco and manufactures of	66.96	63.09		3.87		5.7
7. Agricultural products and provisions	33.35	35.91	2.56		7.6	
8. Spirits, wines, and other beverages	47.44	47.44	Same.	Same.		
9. Manufactures of cotton	43.58	38.15		5.43		12.4
10. Flax, hemp, jute, and manufactures of	19.27	18.97		.30		1.5
11. Wool and manufactures of	58.07	57.09		.98		1.6
12. Manufactures of silk	60.17	58.03		2.14		3.5
13. Manufactures of rayon	53.09	53.68	.59		1.1	
14. Paper and books	26.14	25.91		.23		.87
15. Sundries	28.56	20.88		7.68		26.8

Mr. GARNER. This is what the Tariff Commission reports. I do not know whether you have examined these comparisons, but the Senate got out this document up to a certain period; that is, when the bill was reported from the Finance Committee. Now, the Tariff Commission has brought these comparisons, as nearly as they can, up to date, including every amendment, when it was considered in the Committee of the Whole and when it got out of the Committee of the Whole, up to March 13. There has been very little change since March 13.

Now, what are those comparisons, and what is the duty of a Democrat? I do not care what a Democrat's views are, even if his views are similar to those of my friend from Alabama [Mr. HUDDLESTON], and I believe I am violating no secret, because I believe he said on the floor of the House he was for free trade.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. HUDDLESTON. But for all kinds of protection on products of my district, just like everybody else. [Laughter.]

Mr. GARNER. I had hoped the gentleman from Alabama would reform, and I find he has. [Applause.] I am very happy to know it.

Mr. HUDDLESTON. Will the gentleman yield further?

Mr. GARNER. Yes.

Mr. HUDDLESTON. Theoretically I am for free trade, and if I could get anybody else of reputation to join with me I would stand for it, but what is the use of one honest man standing alone? [Laughter.]

Mr. GARNER. Well, it makes no difference what the opinion of a Democrat may be on the tariff. There is only one type of a Democrat who could send this bill to conference without an opportunity of voting on the Senate amendments and that would be a Democrat who believes that the rates on agricultural products are too high in the Senate bill. I can understand how a Democrat who honestly believes that the rates which were increased in the Senate are made too high in the agricultural schedule could consistently vote against that schedule and therefore vote to send the bill to conference with the hope of getting those rates reduced. But every schedule in this bill, as passed by the House and sent to the Senate, has been decreased except two. I will put these percentages in the RECORD, and those who are interested may glance at them tomorrow, if they desire. The Senate has increased the agricul-

tural rates 2.56 per cent, which is an increase of 7.6 per cent of the House rates.

The schedule relating to the manufactures of rayon has been increased 59 per cent, which is an increase of 1.1 per cent of the House rates, but the other schedules have been decreased.

Mr. CROWTHER. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. CROWTHER. Would the gentleman mind giving the percentage of decrease.

Mr. GARNER. I am going to do so. I can understand, Doctor, how you are perfectly consistent and I would vote like you are going to vote if I were in your place, because you believe the rates put in the House bill are not quite high enough.

Mr. CROWTHER. Not quite.

Mr. GARNER. I thought so, and believing that very naturally, and properly so, you would vote to send the bill to conference for the purpose of endeavoring to get these rates retained in the bill.

Mr. CROWTHER. Will the gentleman yield further?

Mr. GARNER. No; just a minute. Let me carry the thought out a little further. We find the Senate has reduced the rates in every schedule except on agriculture and has left it comparatively where it was on rayon. Now, you can not go below the Senate rates and you can not go above the House rates in conference. Everybody, including the new Members of the House, knows the rules governing conferences. You can not go below or above the two sets of rates. So the rates that are in the Senate bill must be accepted by the House or they have got to be raised in conference. They are the lowest you can possibly get.

What is the duty of a Democrat if he honestly believed that the House rates were higher than they should have been? It is his duty to vote to agree to the Senate rates, reserving the right to himself, if he desires to do so, to vote against the bill even if such rates are adopted. He would then be contributing to holding them down to the lowest level, as I think the Senate rates have done.

I yield now to the gentleman.

Mr. CROWTHER. Let me say to the gentleman from Texas that his party, together with my party, came to a common agreement in the last election as to what tariff rates should be, and they both stated very clearly, if the gentleman will bear with me a moment——

Mr. GARNER. Yes.

Mr. CROWTHER. That the tariff should always represent the difference in the production costs here and abroad. Let me say to the gentleman, after very careful preparation through listening to the hearings and going over the briefs that were submitted, the Hawley bill was submitted to the House and to the country, and let me further say to the gentleman there was not a single rate in the Hawley bill that really represented the difference in production costs here and abroad. [Applause.]

Mr. GARNER. They are a little lower.

Mr. CROWTHER. They were lower than they ought to have been, provided that is the proper basis to be used.

Mr. GARNER. I understand the doctor's position—that the rates were too low.

Mr. CROWTHER. Whether it is right to continue that basis or that method of allocation is a question. Many times we found the difference would be so great that the committee would not accept it, much less the House, and we may have to find some new method of allocation of duties rather than the fundamental basis which we have been adopting for years and that you people took from us last year and declared as your own purpose. The gentleman will remember that a very prominent New Yorker, a candidate on your ticket, declared that he was for tariff revision and that he was for the kind of tariff revision that would not take a single 5-cent piece from the pay envelope of any industrial worker in the United States. [Applause.]

Mr. GARNER. I thank you, Doctor. That is quite a contribution. [Laughter.] The gentleman is doing exactly what he always does.

Mr. CROWTHER. Will the gentleman yield?

Mr. GARNER. Just a minute. Give me a little time.

Mr. CROWTHER. Just give me a moment. If the gentleman wants his speech to be a really good speech, he will yield to me occasionally.

Mr. GARNER. I do. I do not think there is a more ideal Republican protectionist in the United States Congress or elsewhere than you are, sir [laughter and applause], and I think your views are ideal for the Republican organization, although some of your colleagues repudiate them.

Mr. CROWTHER. Just a moment.

Mr. GARNER. I can not give you all the time, however good a speech you may make.

Mr. CROWTHER. Let me say right here to the gentleman from Texas that the gentleman has also made some very earnest protestations in this House and in his State as to being a protectionist, and I want him to live up to them when it comes to final action on this bill and I want him to measure up to those statements.

Mr. GARNER. I intend to. I want you to give me an opportunity, therefore, to consider these schedules in the House so I can demonstrate them. Will you give me an opportunity to demonstrate?

Mr. SCHAFER of Wisconsin. Will the gentleman yield?

Mr. GARNER. In just a minute. Will you give me an opportunity, sir, to demonstrate?

Mr. CROWTHER. In answer to that I will say that in the light of what has happened with regard to the gentleman's leaning toward protection and his real actions in the past with respect to it, I do not think I would want to do that, because, when he had an opportunity to demonstrate, he made a miserable failure after making a great speech on a protective measure which was pending here.

Mr. GARNER. Now, how much time do you want? [Laughter.]

Mr. CROWTHER. I will take all the time the gentleman will give me. [Laughter.]

Mr. GARNER. Let me use a little of my time now. Let me occupy the floor for just a little while.

I regret very much that my friend from New York seems to have lost confidence in my protestations about being for sane and adequate protection, but I am.

This is the reason I am making these remarks. There are some of these schedules I would vote for and some that I would vote against, and I want to have an opportunity to vote upon them, and certainly we should have an opportunity to consider them. Is there any reason why we should not take up the chemical schedule, for instance?

Mr. TREADWAY and Mr. BACHARACH rose.

Mr. GARNER. Just a moment. I am going to use a little of my time now. I am not going to give it all to people who do not know anything about the situation and do not seem to want to learn anything about it.

Why can you not give an hour to the consideration of each one of these schedules? For instance, here is the chemical schedule, and practically every rate in it has been reduced. Casein, a product of the dairy, is one rate that has been increased. Why can you not give me an opportunity to vote on the rates in the chemical schedule?

Is there any reason why you gentlemen should not have an opportunity to intelligently cast your votes as to your preference between the House rates and the Senate rates? Are you afraid? You have time enough to do this. There are 15 schedules, and if we took an hour to each schedule, for instance, we could consider the bill in 15 hours, or about three days, which would afford an opportunity for intelligent discussion, intelligent consideration, and give the members of the House an opportunity to cast their votes for either the Senate rates or the House rates. Why do you not do that? Are you afraid?

This would give you an opportunity, my dear lady from New York [Mrs. PRATT], to vote for a reduction in the rate on sugar, for which you so eloquently pleaded on the floor of this House.

I would like an opportunity for this House to go on record, as to whether it favors the exorbitant rates contained in the House bill, or the more moderate and reasonable rates contained in the Senate bill. Is there any reason why you should not give us this opportunity?

Mr. SCHAFER of Wisconsin. Will the gentleman yield?

Mr. GARNER. I yield now to the gentleman.

Mr. SCHAFER of Wisconsin. Under the gentleman's plan, would the House have an opportunity to have a separate vote on the antimony, and antimony-oxide rates?

Mr. GARNER. Yes.

Mr. SCHAFER of Wisconsin. We find that the House rejected a proposed increase in this rate, and the only person who appeared——

Mr. GARNER. Do not make a speech. I have answered the gentleman's question.

Mr. SCHAFER of Wisconsin. You are afraid of the question because another body increased antimony and antimony oxide——

Mr. GARNER. I decline to answer where a man asks a question and then gives the reason himself.

Mr. CRISP. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. CRISP. Is it the gentleman's idea that if his plan is carried out that the House would not vote separately on the various schedules but would vote en bloc after the schedules had been debated whether they preferred the House or the Senate amendments?

Mr. GARNER. Yes; I say that for this reason: To take all the individual amendments and consider them individually at this late day is impossible. Impossible on account of the lack of time. I doubt if the country would approve of a vote on each separate amendment, but the country would indorse the common-sense idea of giving the Members an opportunity to express themselves en bloc on the various schedules.

Mr. BACHARACH. Will the gentleman yield?

Mr. GARNER. Yes; once more.

Mr. BACHARACH. The gentleman was here when the Underwood bill was passed, when the Democratic Party was in control, and the Democrats had a caucus in which each man was bound.

Mr. GARNER. You have asked that old question about seventy-five times.

Mr. BACHARACH. Why was not the gentleman——

Mr. GARNER. Does the gentleman want to ask a question or make an oration?

Mr. BACHARACH. I will ask the question. Why was not the gentleman then opposed to it when he was in the majority as he now is when he is in the minority?

Mr. GARNER. The gentleman comes back and says, did not you do this way in times past? You have no reason why the House of Representatives should not have an opportunity to express itself on the rates, and you can not give a reason to save your life. You have to go back and ask: "Did you not do so and so when the Underwood bill was passed?" The difference between the Democrats and the Republicans is this: We undertook to confer, and worked together under caucus rules, but you do not do anything except to follow the bosses, and you do not give the Democrats any opportunity to consider the bill, while you were given opportunity to consider and offer amendments to the Underwood bill.

Mr. SNELL. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. SNELL. Will the gentleman tell us how the Democratic party considered the 637 amendments on the Wilson tariff bill in 1894?

Mr. GARNER. I will refer that to the gentleman from Iowa [Mr. RAMSEYER], an authority on what occurred before the Civil War. [Laughter.] I will let you work that out with him.

Mr. TREADWAY. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. TREADWAY. Do I understand the gentleman wants an opportunity to consider the amendments the Senate has adopted?

Mr. GARNER. Yes.

Mr. TREADWAY. The gentleman will be a member of the conferees——

Mr. GARNER. I will tell you I do not want to monopolize the whole thing. [Laughter.] I want to give the Republican Members some chance, and I am also solicitous about my Democratic colleagues. I want to give them some chance, and they will not have any chance after it is sent to conference. I want to give them a chance to go back to their constituents and say I did my very best to raise or lower the rates, as the case may be.

Mr. TREADWAY. Does not the gentleman consider that he is a worthy representative of his colleagues?

Mr. GARNER. Oh, yes; but they are also worthy representatives of themselves.

Mr. TREADWAY. I think they have entire confidence in the gentleman and will trust to his judgment.

Mr. GARNER. Let me give you some of these rates. Take the chemical schedule. It is pretty hard to give the rates to you in percentages, but in general percentages that you understand, and that the ordinary man, such as myself, understands. I will give the percentages in reduction or addition with respect to the differences in the Senate bill and the House bill; that is to say, how much lower the Senate rates are or how much higher than the rates in the House bill.

In the chemical schedule there is a decrease by the Senate from the House rates of 1.58 per cent, which is 4.9 per cent of the House rates. There would have been a larger decrease there, as there was a larger decrease in the report of the Senate Finance Committee from the Senate action itself. The reason the reduction is not more is because of the increase for casein. If you were to eliminate casein you could very easily increase that percentage up to probably 6.4.

Next let us take earth, earthenware, and glassware. There is a decrease there from the House rate of 1.98 per cent, which is a decrease of 3.6 per cent of the House rates.

On metal and manufactures of metal there is a decrease in the Senate rates of 3.68 per cent, which is a 10 per cent decrease of the House rate. I would like to vote for that. I have examined that schedule. I would like to vote for that and for the chemical schedule. I can not tell about the others. I have examined the chemical schedule and the metal schedule. I want to vote for that decrease. I will not have a chance to vote for it if you send it to conference without giving the House an opportunity to consider that schedule. I am willing to vote for it en bloc. As I say, the better way and the more intelligent way would be to go into the Committee of the Whole and consider the amendments as we do in an original bill, without the gag rule you had, under which nobody could offer an amendment.

Next, let us take wood and manufactures of wood. There is a decrease of 9.69 per cent which is 38 per cent of the House rates. I do not know whether I would adopt that or not. I would have to look into that. That is a considerable change; but if I did favor so great a change, I would vote for it; and if not, I would vote against it and send it to conference. You ought to have that right. These gentlemen laugh at you and say: "Do you not want to vote for these things?" Why do not you gentlemen want to take the responsibility and the obligation of representing the people of your district and the country here to write the law. You are not afraid, are you? You would rather trust HAWLEY and TREADWAY and BACHARACH than trust yourselves. [Laughter.]

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Oh, I have got to read through these percentages first.

Mr. SNELL. Right on that point.

Mr. GARNER. I would rather not. I struck at just three, and now you want to come in with reserve recruits. I would rather get through first with the Ways and Means Committee.

Mr. TREADWAY. Would the gentleman yield to one to whom he has referred?

Mr. GARNER. Yes; I will have to. I am afraid not to yield to the gentleman; because I am afraid of losing influence and caste on the Republican side of the House I have just got to yield to the gentleman. [Laughter.]

Mr. TREADWAY. I would like to know wherein the three gentlemen that the gentleman from Texas has named would fail their colleagues, inasmuch as the gentleman from Texas intimates that he knows us better than they do themselves.

Mr. GARNER. Well, that is all a matter of opinion. My opinion is that you and HAWLEY and 50 per cent of BACHARACH [laughter] are going to do just what you are told to do, and we all know what that is.

I desire now to have the attention of 21 of you gentlemen over there on the Republican side who made speeches against the sugar schedule.

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

Mr. GARNER. I want to get some more time, Mr. Speaker.

Mr. CROWTHER. Mr. Speaker, I ask unanimous consent that the gentleman may have 60 minutes more.

The SPEAKER. The gentleman from New York asks unanimous consent that the gentleman from Texas may proceed for 60 minutes. Is there objection?

There was no objection.

Mr. GARNER. I do not think that I will want that much time, but I just wanted to test this bunch over here to see whether they would give it to me.

Mr. CROWTHER. That will give you plenty of time to——

Mr. GARNER. Oh, yes; I know it will, and I will be glad to yield to you some of that time. Twenty-one of you gentlemen made speeches against the increase in the sugar rate. You have a chance here now to vote on the sugar rate and reduce it 15 per cent, if you want to. If you 21 men on the Republican side who made speeches against the provisions of the House bill in the sugar schedule will vote against the previous question when Mr. SNELL brings in his rule, we will give you an opportunity to vote the way you talk. Have you got the nerve to do it? Will you practice what you preach? You made speeches against it. You said the rates were too high. You have written your constituents that way. Are you willing now to practice what you preach and vote as you talk? If you are, you will vote down the previous question and we will give you an opportunity to vote on these schedules as they come up, and sugar is one of them. Remember, now, when you send the bill to conference that you can not get the rate on sugar except be-

tween 3 and 2. That is all there is to it—2 cents or 2.40—and you can not get anywhere except between those two. You ought to have an opportunity to express yourselves as to whether you want 2 or 2.40. If you vote down the previous question you will get that opportunity, and you can then tell your constituents when you go back home that you really meant it, because you voted down the previous question.

Mr. RAGON. Mr. Speaker, will the gentleman yield there?

Mr. GARNER. Yes.

Mr. RAGON. I will ask the gentleman whether there is any other way for these gentlemen who have manifested antagonism to rates by which they can manifest their opposition than by voting as you have indicated here against the motion sending the bill to conference?

Mr. GARNER. Here is what the RECORD will show and what the vote in the House will show, that you voted for a rule to disagree to all the Senate amendments. Remember the language of it. If anyone is shrewd enough to place it properly before the public, the public will know that you did not want to vote against a single amendment, because you wanted to vote for a rule against all Senate amendments and send the bill to conference. If there is a single Senate amendment that you want to vote for, how will you explain that you voted against all Senate amendments and sent the bill to conference?

Mr. RAGON. That includes the increase of the agricultural rates that the Senate put in the bill.

Mr. GARNER. Yes. I will come to that in a moment. You will have to go on record as voting against all the Senate amendments, whether it be a particular item in behalf of New England or California or Texas. You are against all the Senate amendments, and you want to send this bill to conference.

I would like to vote on the Senate amendments to the sugar schedule—No. 5. I put myself on record as I go on. On tobacco and manufactures of tobacco there is a decrease of 5.7 per cent of the House rate. My opinion at the present moment is that I would vote against that. I think there ought to be some increases instead of decreases on the tobacco schedule.

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

Mr. GARNER. About the tobacco schedule?

Mr. CROWTHER. No.

Mr. GARNER. Well, I do not want some foreign provision put in while I am talking about the tobacco schedule.

The next is the agricultural schedule, an increase of 7.6 per cent of the House rates. The Senate considered these various schedules, and here is the result of their work—a decrease on all schedules except the agricultural, and in that case they make an increase of 7.6 per cent of the House rates.

I would like to vote for that. You people who have been professing that you wanted to help agriculture; you people who have been writing to your constituents that you are anxious to bring agriculture up to a parity with industry—what will you tell your constituents when you vote against agriculture under these amendments that the Senate has put on in behalf of agriculture? You want to send the bill to conference when the conferees will embrace one man from Oregon and one from Massachusetts and one from New Jersey and perhaps one from California.

Mr. RANKIN. Mr. Speaker, will the gentleman yield there?

Mr. GARNER. Yes.

Mr. RANKIN. I want to inquire of the gentleman from Texas if it is not a fact also that the Senate has provided for an export debenture on wheat and cotton and other agricultural commodities of which we produce an exportable surplus? To-day wheat is selling in the United States at the same price as it sold for 30 years ago, and cotton is far below the cost of production.

Mr. GARNER. Yes; I understand that agriculture is in bad shape, and nearly everything else is in bad shape.

Mr. RANKIN. Under your program would we have an opportunity to vote on that amendment?

Mr. GARNER. I would not object to that, but I realize that it would be asking too much of the Republican side of the House to agree to that or to the administrative provisions. But I do say that if I were a Republican, an administration Republican, if you please—and if I were a Republican I would be an administration Republican.

Mr. SCHAFER of Wisconsin. Mr. Speaker, will the gentleman yield right there?

Mr. GARNER. No; and you are not an administration Republican, and I will not yield to you. [Laughter.]

Mr. CROWTHER. Mr. Speaker, will the gentleman yield to me?

Mr. GARNER. In a moment.

If I were an administration Republican I would vote for an opportunity to vote on the Senate amendments to this bill. I am not afraid to tell the world where I stand when any question comes up. You are not afraid, are you?

Mr. CROWTHER. No.

Mr. GARNER. And you would be willing to let your constituents know where you stand, would you not?

Mr. CROWTHER. Yes.

Mr. GARNER. You are not afraid to tell where you stand, but you want to keep the other boys in line?

Mr. CROWTHER. I do not pretend to keep anybody in line. It is my duty to keep myself in line.

Mr. CRISP. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. CRISP. If your policy is followed, would not the effect of it be to expedite the passage of this tariff bill? If the House agreed to the Senate schedules, that would end it. If the House disagreed, then the House conferees in conference would have the House back of them to argue with the Senate?

Mr. GARNER. Yes.

Now, if I can, I want to get the attention of my friends on the Republican side for a moment. I want to say to them that if they want to expedite the passage of this bill—and some in the country have been criticizing the delay in its passage—you can expedite it very materially by considering these Senate amendments en bloc, and if you agree to them, that will expedite matters very materially. But how long will it take to dispose of this bill in conference otherwise? Nobody can tell. I venture to say you will not get it out of conference in four weeks, maybe six weeks, whereas if you adopt the policy I suggest you could agree in less than a week or 10 days, and you would have the tariff bill sent to the White House within two weeks after it is sent to conference. You will avoid at least six weeks of delay.

Mr. CROWTHER. Yielding to the blandishments of the gentleman from Texas——

Mr. GARNER. You ought not to qualify it—you ought not to say "blandishments." [Laughter.]

Mr. CROWTHER. Well, then, let us say logic. I do not desire to be offensive. I realize that I am addressing the leader of the minority, and I have the highest degree of respect for both his logic and his blandishments. I observe in the offing the assistant leader, the gentleman from Mississippi [Mr. RANKIN].

Now, suppose we yield to your blandishment or logic and give your folks and our folks an opportunity to vote on these schedules. Will the gentleman from Texas then vote for the tariff bill?

Mr. GARNER. Yes; if amendments are adopted that I think ought to be adopted, I will vote for it.

Mr. CROWTHER. With an "if"; always with an "if."

Mr. GARNER. Would the gentleman from New York [Mr. CROWTHER] vote for them if they were not according to what the gentleman thinks they should be?

Mr. CROWTHER. I would vote for any tariff bill that the committee brought in here and for a conference report as well. I would vote for it for the protection of American industry. [Applause.]

Mr. GARNER. If it reduced the present rates? If a rule were brought in reducing the present rates by 50 per cent under the 1922 act, would the gentleman vote for it?

Mr. CROWTHER. If the conferees bring in such a bill I will support the conferees. I am a Republican, first, last, and all the time. [Applause.]

Mr. GARNER. I thought the gentleman was a protectionist rather than an obedient servant.

Mr. CROWTHER. Republican and protectionist are synonymous terms, sir. There should be no difference between them. [Applause.]

Mr. GARNER. Some of them have a different idea about it.

Mr. CROWTHER. Yes. They may have a different viewpoint. Many Democrats have a different viewpoint to that of the gentleman from Texas. The gentleman from Texas claims to be a protectionist. I am anxious to see when we get to the wool schedule how the gentleman will feel about mohair from the goat's back.

Mr. GARNER. I will agree with the gentleman now. I will come to the wool schedule now and tell you how I will vote if you will bring it over from the Senate.

Wherever the industrial rates are reduced I am going to vote for them. Now, that general statement is quite clear. Wherever the agricultural rates are increased I am going to vote for them. Wherever the general industrial rates are reduced by the Senate I am going to vote for them. Wherever the Senate has increased the agricultural rates, trying to bring them to a parity with the industrial rates, I am going to vote for them. How about you, Doctor?

Mr. CROWTHER. I am for that. Will the gentleman yield?

Mr. GARNER. Then we will vote together right along. You are going to vote for all of these reductions in rates on industry? I do not think you know what you are talking about.

Mr. CROWTHER. The gentleman knows perfectly well what my attitude is and what his own attitude is. The gentleman is telling us how he would vote, but he will not vote. I shall vote for the bill. May I ask the gentleman if he thinks that any voter in the United States in the fall of 1928, even the wildest optimist of the Democratic Party, had any vision that in the tariff revision there would be a reduction of duties? Does the gentleman think that anybody thought there would be a reduction of duties?

Mr. GARNER. I certainly did not expect increased duties such as have been put in this bill in the House. Does the gentleman think anybody expected any such increases?

Mr. CROWTHER. Yes; I think so.

Mr. GARNER. Well, it is very easy to please the gentleman from New York.

Mr. CROWTHER. The gentleman from Texas knows that only 30 per cent of the items in the House bill were changed by the Ways and Means Committee in preparing the Hawley bill. Not to change the tariff bill rates at this time is a frank admission on the part of everybody that Europe and the United States have stood still industrially for the past eight years.

Mr. GARNER. I am glad the gentleman got more time for me. The gentleman says they only changed it a little. Do you know how much they changed it over the present law—the Hawley-Smoot bill over the Fordney-McCumber bill? Forty-three and fifteen one-hundredths per cent in the House, and 34.62 per cent in the Fordney-McCumber bill. A difference of almost 9 per cent, and the gentleman said they did not increase it very much.

Mr. ALDRICH. Will the gentleman yield?

Mr. GARNER. I yield.

Mr. ALDRICH. Has the gentleman the figures showing the difference between the Senate rates and the rates in the Fordney-McCumber bill?

Mr. GARNER. Yes; I have them here and I will put them in the RECORD.

Mr. ALDRICH. Will the gentleman put those in the RECORD?

Mr. GARNER. Yes. And I also have those for the Underwood bill.

Mr. STOBBS. Will the gentleman yield?

Mr. GARNER. Certainly.

Mr. STOBBS. Would the gentleman vote for an increase of 200 per cent on wool waste, which the Senate put on?

Mr. GARNER. No; I would not. I would not vote for any unreasonable rate.

Mr. STOBBS. Then the gentleman agrees——

Mr. GARNER. I want to say to the gentleman from Massachusetts [Mr. STOBBS] that if I had carte blanche to write a tariff bill, I would write it for his section just the same as for mine. I would write it honestly, without regard to sections or industries of this country, giving adequate protection for American labor and nothing more. [Applause.]

That is the policy I would pursue if I had an opportunity to write a tariff bill. [Applause.]

I complain about the gentleman from Massachusetts and his section of the country because they have been practicing protection at the expense of our people so long that they can not realize what it means to do this to the other sections of the country, in the matter of the theory of protective tariff. It is no better illustrated than by the vote in the Senate on one particular problem. There is one particular gentleman in another body, known by all men as one of the greatest protectionists in America; one of the most effective we have ever had in this country. When it came to protecting southern long-staple cotton, a clean proposition, where do we find the gentleman voting? We find him voting to keep it on the free list. Doctor, you would not do that. You are more consistent and I may say a little more honest than that other statesman that I think of who would not practice what he preaches when it comes to voting a protective duty to southern products.

Mr. STOBBS. Will the gentleman yield?

Mr. GARNER. I yield.

Mr. STOBBS. New England did not want any increase in the duty on wool waste, and the House did not put on any increase except one-half of 1 per cent, but there was an increase of 200 per cent put on wool waste in the Senate, at the request of the woolgrowers of the South.

Mr. GARNER. No. Massachusetts did not want a duty put on any raw material that it uses. That is the truth about it. You do not want a duty on anything that Massachusetts has to buy, but you want a duty on everything that Massachusetts sells, do you not?

Mr. STOBBS. Yes.

[On the next day the following proceedings occurred:

Mr. STOBBS. Mr. Speaker, I desire to correct the RECORD on page 5734, in the first column, where the gentleman from Texas [Mr. GARNER], in making a statement in reference to Massachusetts, the RECORD shows that I said "yes." As a matter of fact I made no reply. The RECORD is in error in stating that there was an affirmative answer on my part.

Mr. GARNER. I again refer to the reporter's notes—they were not changed in this particular. I understand the explanation of this matter by the gentleman is that he did not answer but nodded his head, and the stenographer took it as "yes." The gentleman reflected what was in his mind at the time but did not come out and say so, but merely nodded his head.

Mr. STOBBS. The stenographer says that I did not say "yes" but nodded my head. I did not nod my head in acquiescence. My attention was temporarily diverted by a remark addressed to me by a gentleman who sat beside me and I was not following further the remarks of the gentleman from Texas and did not actually hear his inquiry addressed to me and could not under the circumstances, and would not if I had heard the inquiry, have acquiesced or answered it affirmatively.]

Mr. GARNER. Certainly. You are an honest, square fellow. You say that you want everything that you buy free and you want everything that you sell protected. That has been your custom for fifty or a hundred years. Now, when they begin to apply this policy of protection throughout the country Massachusetts has got to suffer, and as I said on the floor of this House in the discussion of this bill, if you will apply the protective tariff theory honestly throughout the country, New England can not live economically. She has got to come to free trade. No other thing can possibly save you if you apply the protective theory to all industries in every section of the country impartially.

But you do not want that, and one of your spokesmen, sir, was bold enough, as you are now, to say before the Ways and Means Committee, that he understood the Republican position to be that you were for free raw materials and protected manufactures. He said that was the Republican theory in Massachusetts, and he said that was the Republican theory throughout the country, and he is one of the high Republicans in your State.

Mr. SCHAFER of Wisconsin. What is the Democratic theory in Massachusetts? Some of the remarks of gentlemen from Massachusetts in another body would be rather interesting.

Mr. GARNER. I do not yield to the gentleman from Wisconsin for the purpose of discussing somebody from Massachusetts. If he will take care of his own State, I am sure he will be doing pretty well. I doubt if he is going to do it, however.

Mr. TREADWAY. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. TREADWAY. I think the gentleman has misrepresented the attitude of Massachusetts and New England on the entire tariff issue, but we will debate that later. I do, however, want to ask the gentleman a distinct question, whom he was quoting as the authority on the tariff from Massachusetts when he said that any such evidence was submitted as the gentleman from Texas has mentioned?

Mr. GARNER. I think the man's name was Johnson.

Mr. TREADWAY. Where is the evidence the gentleman from Texas is trying to give to the House?

Mr. GARNER. It is in the hearings before the Ways and Means Committee, sir.

Mr. TREADWAY. Let us have it.

Mr. GARNER. It is in the record, and the gentleman can look it up.

Mr. TREADWAY. I do not think any evidence was given before the Ways and Means Committee which contained the statement the gentleman from Texas has made to the House as coming from a man from Massachusetts. If the gentleman has the man's name, I would like to have it, because it is not true, and we will refute it every day in the week.

Mr. GARNER. I did not want to be taken off on the question of testimony before the Ways and Means Committee.

Mr. TREADWAY. I think I made a fair inquiry of the gentleman from Texas.

Mr. GARNER. I will undertake to have Mr. Price look up that record, and get the names of these two men. I think one was from Massachusetts.

Mr. TREADWAY. The gentleman is backing away a little bit now.

Mr. GARNER. They testified before the Ways and Means Committee and said it was their understanding that the Republican doctrine was free trade in raw materials and protection on manufactured articles.

Mr. TREADWAY. The gentleman is as wrong about the theory as he is about the testimony. We would like to have the evidence submitted, but I do not believe it exists.

(Subsequently, Mr. GARNER received permission from the House to insert the following from the hearings of the Ways and Means Committee:)

STATEMENT OF HENRY M. CHANNING, REPRESENTING THE ATLANTIC GYPSUM PRODUCTS CO., BOSTON, MASS.

(Including crude gypsum, par. 1643)

Mr. CHANNING. Mr. Chairman, and gentlemen, I represent a very different angle from that presented by Mr. Avery, who speaks for a great national company. I speak for a New England effort, an effort to put an industry into a section which is lacking in raw materials, and whose other industries are not doing any too well.

I speak of an effort to take a great plant in Portsmouth, N. H., idle for many years, and put into that plant a sound industry to meet the needs of a purely local New England market.

We investigated the possibilities, and we found that gypsum products were consumed to an extent in New England which justified the use of that property for gypsum. We investigated the possibilities of getting our raw materials from western New York, where these gentlemen are. We determined that, due to the freight rates and due to 20 per cent of water in the crude gypsum, which is taken out by calcination and preparation for market, we could not hope to compete in New England with those who manufacture the domestic rock at their doors. We looked up the tariff laws, knowing that crude gypsum was on the free list. We saw that it had been on the dutiable list for three successive Congresses, and then that a strong Republican protectionist Congress in 1922 put that crude gypsum on the free list. It put it there, gentlemen, for a purpose. That purpose we conceived was to promote the Republican policy of protection and encouragement of industries where they could not get raw materials elsewhere, and to give us an opportunity to develop, for our own markets, our own manufacturing industry.

We followed our belief that we could rely on the policy of a strong protectionist Congress to be continued by such a Congress. We acquired a plant in New York and a plant in Chester, Pa., in order that we might get a large enough volume of rock consumption to enable us to hope to compete with the big companies, and we have invested a very large amount, purely of American capital, in what is purely an American industry, and primarily a New England industry, built for that purpose.

It is said that we have an advantage of many dollars per ton by reason of our cheap rock. It is said that we have refused to give figures. I gave the Undersecretary of the Treasury recently our costs of rock for 1926 and 1927.

I will say that we are a young company and our figures are not long and complete, except in the plant we took over in New York. We have the Pennsylvania figures. Those figures on the rock pile at our plant have run from $2.80 to $3.88 a ton.

That is considerably more than double what the crude material of the New York manufacturer costs him at his plant.

We are going ahead and we are manufacturing in these three plants. We are standing heavy losses every month we continue at these prices; and, gentlemen, if you change your protectionist policy of giving New England, without raw materials, a chance to develop its markets you destroy an industry with a splendid prospect for us and we are through.

Our effort again has been an effort to make New England independent; to give her a chance to develop her own markets, where raw materials can not be obtained from other sources in competition with those other sources. You take away and destroy our manufacture in New England in order that you may give both the mining and manufacturing to western New York State.

We ask you gentlemen to continue, if you will, your established Republican policy of protection of this industry, where we have followed your lead and done our best to build it up.

There were a number of what I conceived to be radical misstatements in the picture presented by the other side, but I take it that I can confer with my associates and file with you such facts in written form as I choose, so I will not go into a refutation of what he has said.

I have covered in somewhat briefer form than I wanted to the essentials.

I have these gentlemen here with me so that I may answer any questions you desire to ask.

Mr. TREADWAY. Did I understand you to say that the difference between you and the last witness in effect was that he wanted to get the benefit both of the local product—mining the gypsum, and a duty on the imported gypsum, whereas in the case of your company, your company mines in this country all the gypsum?

Mr. CHANNING. Oh, no. On the contrary, I said that we were landed with this big plant at Portsmouth, which had been in disuse for a great many years, and in our effort to find a sound industry we could put there for a market for New England consumption which seemed to be in that field, we investigated the sources of supply. We found that the western New York manufacturer, with his material at his door, could come into New England and beat us at the game, because if we bought our rock or mined it in western New York, we should have to carry 20 per cent of water with our crude gypsum. Then we should have to ship a part of it back toward western New York. So that the absorption of freight on the water, plus absorption of our freight rates going back toward him, would kill us, and that our only hope in that line was to take advantage of the Nova Scotia rock which was at that time on the free list, having been placed there by a Congress, as we understood, for a protectionist measure, and from reading the record it appears that it was to protect this group of domestic manufacturers who had been on the seaboard for many years and who had been having a hard time.

One of the gypsum plants we took in Pennsylvania was out of production from 1916, I think, until 1926. They have been unable, with this rock, to make any progress there.

Mr. TREADWAY. Is your New Hampshire plant running successfully now?

Mr. CHANNING. It is running very successfully, sir, but the prices are such that, as I say, we have to absorb very heavy losses every month we are operating. It is not a question of our standing a tariff. We are running heavily under water. Every ton that we put out means a loss, due to this price condition which is countrywide. As Mr. Avery said, we are in the way.

Mr. TREADWAY. Do you agree with him that the production oversupplies the demand at the present time?

Mr. CHANNING. Absolutely.

Mr. WATSON. Do I understand that you and your associates are entirely satisfied with paragraph 205 as it is now written?

Mr. CHANNING. Is that the paragraph that crude gypsum is on the free list?

Mr. WATSON. One dollar and forty cents per ton.

Mr. CHANNING. The $1.40 per ton duty has kept practically any substantial amount of manufactured gypsum or gypsum products from coming in. There is a certain amount, but not a serious amount.

Mr. WATSON. I thought I understood you were satisfied with the tariff as written in paragraph 205.

Mr. CHANNING. As I say, we have not found any necessity for increasing the tariff on the manufactures of gypsum.

Mr. WATSON. But you are satisfied with it as it is?

Mr. CHANNING. Yes, sir. Crude gypsum, which we are interested in, is on the free list. We are interested in having the law stay as it is.

Mr. WATSON. Then you are satisfied?

Mr. CHANNING. Yes. We have no objection to the tariff on manufactures of gypsum being increased if you think you ought to, but our position is that we would rather let well enough alone.

Mr. CHINDBLOM. Mr. Chairman, the gentleman first mentioned Portsmouth, N. H., and did not follow that up.

Have you a plant at Portsmouth, N. H.?

Mr. CHANNING. We have a large operating plant and a plant in which we hope to develop other lines of building materials which have their market in New England, our theory being that there are certain heavy commodities which New England uses a lot of that are not now being made there.

Mr. CHINDBLOM. Do you use Portsmouth as a port of entry?

Mr. CHANNING. We use Portsmouth as a port of entry.

Mr. GARNER. Mr. Channing, if I understand you, you made this investigation and started these three plants—one in New York, one in New Hampshire, and one in Pennsylvania—upon the theory that the New England idea of protection would continue to prevail, and that they would give you raw material free and give you protection on your manufactured article?

Mr. CHANNING. Yes, sir.

Mr. GARNER. That is the Republican position, as you understand it?

Mr. CHANNING. I understood that that was the position in 1922, and that it was so to-day where industries which had been built up on the faith of that protection could not get their raw materials elsewhere and continue to live.

Mr. GARNER. In other words, if New England could continue to get the products of the mines and the farms and the ranches free and at the same time have protection, she could continue her development and be superior financially, as she has in the past?

Mr. CHANNING. Well, I think there is a great distinction, Mr. GARNER, between getting raw materials for our own local New England consumption and where we are manufacturing in New England, and then spreading things out through the country.

Mr. GARNER. Well, I say, you want free raw material for New England purposes, regardless of what effect it may have on the balance of the country?

Mr. CHANNING. No.

Mr. GARNER. Well, undoubtedly the protection or gypsum would be beneficial to that product in this country. Now, it is not produced in New England, and you are opposed to giving any protection to the balance of the country in order that New England may develop its industry.

Mr. CHANNING. The only part of the country that is affected, I am very sure, Mr. GARNER, or would be, no matter what tariff you put on, is what Mr. Avery described as this little 30-mile area, these four or five big cities right on the coast that have had that industry for a hundred years.

Mr. GARNER. Is your Pennsylvania plant now located so that it just supplies the local market there in Pennsylvania?

Mr. CHANNING. That is all That is all it does for us. Still, it might come to Baltimore and possibly to Washington, but right along on these coast cities. We can not get in against freight rates against the interior plants. There are plants in Virginia. There are two of them.

Mr. GARNER. You may not get the viewpoint, but it seems a little strange to the fellow living in the Middle West or the South or the West, I might say, that we must pursue a policy of giving protection to New England and giving them all of their raw material free, and not giving protection to that country that produces the raw material. We can not understand that. Of course, I never heard it declared before that that was the Republican policy. I understood it was the Republican policy in New England, but you are the first one I ever heard declare that it was the Republican policy.

The CHAIRMAN. The Chair will have to rule against political debate.

Mr. GARNER. Well, the gentleman said the reason he made this investigation was because he understood it was the Republican policy to give free raw material and protection to the manufactured article.

Mr. CHANNING. Free crude gypsum. They took gypsum off in 1922, from the tariff list, where the Democrats had keep it, and they only did that for a purpose, Mr. GARNER, and that purpose was to help the established gypsum mills on the coast that could not get their raw material anywhere else.

Mr. GARNER. The 1913 act had a duty on gypsum.

Mr. CHANNING. Yes. That was a Democratic Congress.

Mr. GARNER. Extract from statement of J. Franklin McElwain, Boston, Mass., representing the National Boot & Shoe Manufacturers' Association—page 8704, tariff hearings, 1929:

Mr. RAMSEYER. Now, you are asking a duty of 25 per cent on all shoes?

Mr. MCELWAIN. Yes, sir.

Mr. RAMSEYER. And boots?

Mr. MCELWAIN. Yes, sir.

Mr. RAMSEYER. And you are asking for free trade in hides?

Mr. MCELWAIN. Yes, sir.

I also call the attention of the gentleman from Massachusetts [Mr. TREADWAY] to the statement made by his Massachusetts colleague [Mr. STOBBS] in answer to question asked by me to-day as to the kind of a tariff Massachusetts desires.

Manufactures of cotton: There has been a Senate reduction of 5.43 per cent, which is 12 per cent of the House rate. I would like to vote for that. I would like to have an opportunity to vote for it, and there is nearly as much cotton manufactured in the South now as there is in New England. I would like to vote for that, regardless of how my friend from North Carolina [Mr. KERR] may stand on it, the gentleman from Massachusetts, or anyone else.

I have examined the schedule, and I know in my own mind that the rates put in the House bill are indefensibly too high. They have been reduced in the Senate, and I would like to get a chance to vote for it. Would you not like to get a chance to vote for it? I think you would.

Flax, hemp, jute, and manufactures thereof reduced 1.1 per cent of the House rate. Well, I am sure that makes very little difference, but I certainly would vote for that reduction. Wool and manufactures of wool, 1.6 per cent of the House rates. I surely would want to vote for that, although I come from a wool-producing State. Are you willing to go on record and say you want to vote for it? I am willing to take my political life in my hands, if necessary, and vote for a reduction, which I think ought to be placed in this bill.

I stated on the floor of the House before if you would let me write every rate, every line in the bill, with the flexible provision in the bill, I would not vote for it. That settles that, and whatever the rates may have been I am willing to take the penalty.

I want to vote to reduce that woolen schedule, as the Senate has done.

Manufactures of silk, a reduction of 3½ per cent of the House rate. I would like to vote for that.

Manufactures of rayon. Now, I do not know much about the rayon schedule, and I doubt if anyone else does, because, if you will remember, it is a new schedule, and only experts can tell anything about it, and besides it is a new industry.

I would not say I would not vote for the Senate rate, raising it 59 per cent, which is 1.1 per cent of the House rates, if I thought it advisable, and I say frankly I do not know.

Paper and books. A reduction has been made in the Senate. I would like to vote for that.

Now, here is the most important part of the bill so far as the rates are concerned. I refer to the schedule relating to sundries. You will remember a long list of sundries. There are amendments running up into scores and scores, applying to particular items. They have reduced them 7.68 per cent, which is 26 per cent of the House rate. You get a reduction on sundries of 26 per cent, and I want to vote for it. What would you do about it? You ought to examine it. You ought to see about it. You ought to vote for an opportunity to look into it and have an opportunity to consider it.

I am only appealing to your conscience, your duty as men in the American Congress selected by great constituencies. Why do you not take the responsibility and undertake to consider these schedules and vote on them en bloc? It can be done without any great inconvenience. It can be done without delay. In fact, it will facilitate the passage of this bill. Why do you not do it?

I have asked that question and the answer is, because they did not pass the Wilson bill in that way or the Underwood bill in that way. That is the only reason that has been given this morning. I thought when his highness, the Speaker, came down he had come to answer that. I thought he might be able to give some reason which would be different from that given by others. I wondered whether he had any other reason as to why we should not consider these schedules one at a time, but I doubt if I will ever get any answer to that.

Mr. Speaker, there are the comparisons, and it is up to you gentlemen. I knew this morning that question would be asked me and I discussed it. It was discussed by Senator CONNALLY and some other gentlemen whose judgment I respect very much, the matter of what is the duty of a Democrat. Now, TOM CONNALLY is a partisan, but he is patriotic, and all he wants to do is to take care of the best interests of this country, and that is what I want to do.

Suppose you did adopt all these rates that are put in? Then here is the query that comes to me: What is my duty?

You brought this bill back here and you considered these amendments en bloc; you voted for the amendments I thought you ought to vote for, you voted against the amendment I thought you ought to vote against, so the Senate bill is perfected so far as I can perfect it. What is my duty? It is a very serious question.

This question is not so serious from a Republican standpoint. Party organization, party activity, might very well cause one to excuse himself and say, "I am going along with my party." It is a little different with one on the Democratic side.

You have on the statute books at the present time a law that has been denounced by every Democrat from every stump in the United States for the past eight years. You have never heard a good word come from Democratic lips for the Fordney-McCumber law, the most execrably drawn law that was ever put on the statute books of this country. It treated agriculture worse than any bill that was ever drawn. So we have denounced it.

The Democratic Party promised, the Republican Party promised—we all promised as far as we could—to relieve agriculture in every possible way.

Now, when it comes down to the final analysis, what is my duty when agricultural rates have been increased, when industrial rates have been increased, the flexible provision has been removed, debenture is in the bill? What is my duty? Leave the present law with flexibility in the hands of the President, with agriculture not taken care of, or to vote to substitute another law?

I know this much: I want an opportunity to vote on these provisions, and I do not like to cross a bridge before I get to it. I do not believe if you send this bill to conference it will come out anything like I have described. I know I could not vote for it then; but if it were put up to me at this moment as to what I should do if they permitted me to perfect the Senate bill as I have suggested, my judgment is I would vote for it and displace the present law.

The Senate's change as to the flexible provision alone is worth the price. Taking away from the President of the United States the right to make laws is worth the price, especially when the new flexible provision says that Congress shall consider the tariff bill in the future by paragraphs or by schedules. I think I would take it, if they would give me the Senate bill as it is to-day. Of course, I do not know what it will be tomorrow; but with these percentages, in my judgment, it would be a fairer and a more nearly just law, and then in the future Congress, with its right to legislate once more restored, could amend it and adopt rates according to what they believe they ought to be. Unquestionably, this would be a better policy than the present law, giving to the President of the United

States the power to write the law and increase or decrease rates 50 per cent.

Mr. TREADWAY. Will the gentleman yield once more?

Mr. GARNER. I yield.

Mr. TREADWAY. I would like to ask the gentleman if he prefers—I assume he does from what he says—the Senate provision with respect to the flexible tariff feature to either the House provision or the present law?

Mr. GARNER. I do.

Mr. TREADWAY. I am pleased to know that.

Mr. GARNER. And every other patriotic man, with all due deference to them, who has given the question consideration in connection with our form of government, believes the same way. You know, and every one else except the "me too men" knows, that for Congress to surrender its power to legislate with regard to levying taxes is vital and ought never to be done.

Therefore I say I would support it; and let me tell you, further, that if you would let me write the rates, write every line in this bill, and then ask me to surrender to the President of the United States the right to levy taxes in the future, I would say that the price is too great to secure justice in the matter of rates and then surrender the very heart of this Government with respect to a matter of policy. I would not do it. This is one thing that appeals to me so strongly in the Senate bill. We have the opportunity to take the flexible provision out of the present law and restore this power to the people, through the Congress, which power is now lodged in the President of the United States.

Mr. HASTINGS. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. HASTINGS. Would it not be just as logical to surrender our right or power to make appropriations as to surrender the right or power to say what the tariff duties shall be?

Mr. GARNER. More, so, sir; very much more so.

Mr. Speaker, I am not telling anything out of school in making this statement, and the President can deny it if he wants to, or someone for him; but when this bill passed the House of Representatives certain gentlemen—Members of the House of Representatives—were visiting with the President of the United States, and they were telling him they did not see how they could defend themselves in voting for these large increases in industrial rates, and the President is reputed to have said, "Go home and tell your people that is all right; the President is going to use the flexible provision in the bill to correct such conditions." I do not know that this was his exact language, but at least, sir, it is reputed that that is what he stated you could tell your folks when you went home "These rates are indefensible; I realize they are too high, but we have a wise and patriotic President and he has the power under the bill to reduce them or to increase them and you can make them all happy in this way."

But, my friends, this was at a time last summer when Hoover's sun was shining. Its glory blazed and blinded everything, but to-day, sir, if you went back home and told the folks that, you would find that the mist is there. The clouds have come and just how long they are going to remain before there comes complete darkness in your administration is only a question of time in my opinion.

Mr. BARBOUR. Will the gentleman yield?

Mr. GARNER. I yield.

Mr. BARBOUR. Do I understand the gentleman to say that the President made that statement to me?

Mr. GARNER. No; I was looking at the gentleman, but I did not say that the President made that statement to him. I might reply by asking the gentleman from California if he ever talked with the President on that question, and what he said.

Mr. BARBOUR. I never talked with the President about it.

Mr. GARNER. I thought I might get that information while I had the witness on the stand. [Laughter.]

Mr. LEAVITT. Will the gentleman yield?

Mr. GARNER. Yes.

Mr. LEAVITT. Did the gentleman support the Underwood bill, which put everything Montana produced on the free list?

Mr. GARNER. Now there is the Underwood bill again; you can not get away from it.

Mr. LEAVITT. The gentleman supported that bill.

Mr. GARNER. Yes; I will put it in the RECORD that I helped to draw it. It was stated on the floor of the House that I got protection in it; I have been charged with that, and therefore I am a protectionist.

Mr. Speaker, I wish this House would maintain itself, reinstate itself, in the eyes of the people of this country. I wish we could retain it throughout the country by giving some intelligent consideration to important legislation like this. Do not you know that the country would commend us if we gave intelligent, serious consideration to this bill rather than indorsing it in the hands of conferees and without any consideration by the House of Representatives? We never have had a chance to consider it. My friend from Ohio, Mr. MURPHY, was helpless; he did not get a chance to offer his amendments. He had many amendments that he wanted to offer, and others might have had amendments.

The bill went to the Senate, where it was amended in 1,500 or 2,000 items. I do not want to have them considered in detail, but to consider them en bloc, schedule by schedule, 10 minutes or 30 minutes, or whatever time you want on each schedule, will be acceptable to me. Why do not you do that? Why not have the consciousness of voting your own way and giving some consideration to the most important piece of legislation that will be passed by the Congress at this or any other session?

Mr. Speaker, I am putting into the RECORD this data that I have referred to, with a view of you gentlemen on the Republican side getting the information, if you desire it. When the bill comes over here from the Senate, I hope the Speaker and the chairman of the Committee on Rules [Mr. SNELL], and the majority leader [Mr. TILSON], who is now ill in a hospital we are sorry to say, will get together with the steering committee and give the House an opportunity to express itself. Give me an opportunity to go on record for protection, if you want to. I would rather vote my own conscience, my own judgment, exercise my own patriotic viewpoint and stay at home than to sit in my seat and be so cowardly and negligent of my duty to my country as not to take the responsibility of voting on the most important piece of economic legislation that will come before this country. I am very much obliged for the extension of this time. [Applause.]

Mr. CROWTHER. Mr. Speaker, I ask unanimous consent to address the House for 10 minutes.

The SPEAKER pro tempore (Mr. LUCE). The gentleman from New York asks unanimous consent to address the House for 10 minutes. Is there objection?

Mr. BACHARACH. Reserving the right to object, and I shall not do so, the chairman of the Committee on Ways and Means has 30 minutes this morning. Would not the gentleman rather defer until after he has finished?

Mr. CROWTHER. Oh, certainly.

Mr. HAWLEY. I have no objection to the gentleman proceeding at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CROWTHER. Mr. Speaker and ladies and gentlemen of the House, of course we have all been interested in this wildly impassioned plea of the gentleman from Texas [Mr. GARNER] regarding an opportunity that should be presented for votes on the several schedules of the tariff bill. Of course, the idea is new, and it is something that has never been done before! The gentleman from Texas, of course, had an opportunity in years gone by—though he does not want ancient history referred to—to present this sort of a program; but then he was as silent as the grave. He then was a "me-too" Member; but he does not want anything said about that.

The gentleman characterized the Fordney-McCumber bill as the worst measure ever drawn for agriculture. He says that none of us will say that it was a good bill. I will say it was a good bill, the best one ever written up to this good hour; and let me say this to the gentleman from Texas, that agriculture had everything in that bill that it desired when the bill was written. Agriculture at that time thought that it was a good bill. Events as they happened in the passing of time proved that there were weak spots in it, many of which were improved by action under the flexible provision, and others we have tried to remedy in the Hawley bill as it passed the House. The fact of the matter is that the attitude of the gentleman here and his speech is nothing more or less than an attempt to bolster up and try to strengthen the coalition that he would like to form in the House here, which has been a matter of open invitation for some time. He craves to have some pseudo Republicans on our side join with the regular Democrats in a coalition to defeat the purpose of the protective tariff.

In Collier's Weekly a few weeks ago Uncle Henry, a well-known character, was discussing with Mr. Stubbs, "What is a pseudo Republican?" Uncle Henry said:

> Mr. Stubbs, he is a kind of quadrennial plant, one that blooms every four years, and sometimes the blooms are not very much to look at. He is a Republican every four years at election time, when he is a candidate, and he performs all through the campaign like a trained seal, lies lovingly at the feet of his master, looking at him with seal-brown eyes, waiting for the piece of dried fish to be thrown to him; but after the election is over and the Republican Party endeavors to legis-

late on some of its fundamental policies and revise the tariff, then the pseudo Republican with a wild scream of anguish and a long wail of despair sinks his teeth into the President's hind leg so deep that it takes a tractor to draw them out.

[Laughter.]

That is a fair description of a pseudo Republican. I do not believe that we have in this body many of that type, and the gentleman from Texas [Mr. GARNER] is still scouting for recruits to his widely advertised combination. I think to-day if one were to write an up-to-date sign and hang it on the door of Leader GARNER it would read in this way: "One coalition for sale, slightly damaged; no reasonable offer refused. Apply to JACK GARNER, minority leader's room." [Laughter.]

The gentleman from Texas [Mr. GARNER] speaks of his distinguished, patriotic colleague in the other body, formerly a Member of this house, and I recall that he and his colleague both supported the amendment for a duty on oil. I congratulate him on having seen the light, for he persistently attacked the protective-tariff policy on this floor.

Mr. SCHAFER of Wisconsin. Mr. Speaker, will the gentleman yield?

Mr. CROWTHER. Yes.

Mr. SCHAFER of Wisconsin. They also voted to increase the duty on antimony to protect Cooksen & Co., a British concern, which indicated that they were going to erect an antimony smelter in Texas and smelt ore from their Mexican mines.

Mr. CROWTHER. If they employed American labor, I would not be disturbed about that, because I welcome even a gesture on the part of any of the gentlemen from Texas in favor of the protective-tariff policy. The Democratic Party made a strong declaration last year regarding the protective tariff. One hundred and eighteen of you gentlemen answered the telegram that was sent out by Mr. Raskob, and there has never been but one man who had the intestinal fortitude to stand on the floor here and say that he did answer the telegram and that he agreed with that policy.

Twenty-four of the distinguished Members at the other end of the Capitol answered that telegram, and you declared to the people of this country that business no longer had anything to fear from the Democratic Party, that you were protectionists, and that the measure of duty and its allocation should be in relation to the difference in the cost of production between this and foreign countries. What better statement could you have made indicative of your new faith to the American people? Now it develops that it was mere lip service, that you did not intend to do anything along that line at all. Where are all the pseudo-protectionists of Democratic faith who shouted so loudly for protective tariff during the last presidential campaign? Where are the 90 per cent of the Democratic candidates for Congress, who John J. Raskob claimed had answered his telegram affirmatively in behalf of a protective tariff? Where are the Democrats who subscribed to their party platform, which declared that tariff rates should equal the difference in production costs between the United States and foreign countries? Echo answers "Where?"

HOPE OF SUCCESS

Evidently their declaration of a new-found faith was merely for political purposes and in hope of success at the polls. Out of all that shouting and declaration there has emerged not a new group of Democratic protectionists but a straggling band of sharpshooters, sniping from the old Democratic ambush labeled "Tariff for revenue only." The citizens of these United States were right in their conclusions that our Democratic brethren were not converted by either Mr. Smith's declaration or Mr. Raskob's telegram.

The indications are very clear in that respect at the other end of the Capitol, and we find this coalition of pseudo-Republicans lined up with the Democrats for the purpose of defeating and hamstringing at every opportunity the policy of a protective tariff.

The gentleman from Texas [Mr. GARNER] says with ardent emotion that if we would let him write the bill and let him take out the flexible clause, and if we would let him take out something else and put in something else, he would vote for the bill. Always, you will observe, there is a big "if" in the promise as to the gentleman's action. We had twenty-odd Democrats who supported the bill when it left the House, and I congratulate them in having the courage of their convictions and in endeavoring to help put into force the tariff platform their party ran on in 1928.

Now, this flexible clause is a most necessary factor. The gentleman says we are yielding our constitutional authority when we allow this change of rates to be made by the President. That very question was passed upon by the Supreme Court of the United States, and I think the decisions of the Supreme Court of the United States are still regarded with a considerable degree of favor by the average citizenry of this country of ours. [Applause.] What harm has been done heretofore by the President in increasing agricultural rates on the recommendations of the Tariff Commission? They have proved beneficial to agriculture; every one of them has proved beneficial to agriculture. The flexible clause has a stabilizing influence that will take care of business in this country of ours in the intervals between formal revisions of the tariff.

There has been much misinformation spread abroad in the discussion of the tariff. The pages of the CONGRESSIONAL RECORD have been filled with most extraordinary statements concerning the cost of the tariff to the consumer under the proposed bill. Those figures have no basis in logic or truth. The independent oil producers asked for a dollar a barrel tariff on the 109,000,000 of barrels of oil brought into this country from foreign countries, and a distinguished Senator said that that would cost the people of the United States $900,000,000.

This is the method used by the so-called Fair Trade League, which should be called the Free Trade League. The duty asked on oil was $1 per barrel, and the importations are 109,000,000 barrels. The domestic production is 900,000,000 barrels, so they add $1 per barrel to the domestic production and "presto," the result is according to this method of figuring that the cost to the consumers will be $900,000,000. This sort of arithmetical gymnastics is about the sort of thing you would expect to find in the tax return of the Fresh Air Taxicab Co. Incorpulated, as submitted by Amos 'n' Andy.

There has not been presented the slightest evidence that any rate in the Fordney-McCumber tariff bill during its eight years of service has added a penny to the consumer's cost of any commodity covered by the schedules in that bill. On the other hand, we have many items carrying duties under the act of 1922 where there has been an actual decrease in cost to the consumer.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. CROWTHER. Yes.

Mr. RANKIN. The gentleman says that the flexible tariff is to increase the selling price of commodities in this country?

Mr. CROWTHER. I did not say that.

Mr. RANKIN. Then I misunderstood the gentleman.

Mr. CROWTHER. I am sure the gentleman from Mississippi does not desire to misquote me.

Mr. RANKIN rose.

Mr. SANDLIN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SANDLIN. Is it not a fact that under the special order the gentleman from Louisiana [Mr. MONTET] is to have 20 minutes?

The SPEAKER pro tempore. Yes.

PERMISSION TO ADDRESS THE HOUSE

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to proceed for 10 minutes.

Mr. SNELL. Mr. Speaker, I shall have to object to any more requests to speak.

Mr. RAMSEYER rose.

The SPEAKER pro tempore. For what purpose does the gentleman from Iowa rise?

Mr. RAMSEYER. I rise to ask unanimous consent for time, not to-day, but later, in which to discuss a paper that I prepared last fall while I was waiting for the House to reconvene; a paper to which I devoted considerable research and study, on the subject The Politics of Tariff Making. It is a study of tariff making over the last 55 years.

I have listened to the speeches on the tariff this morning and I want the Members of the House to know that I was distressed at the hilarity which at times was manifested here in the discussion of the most serious and profound problem that is before this Congress. So far as I am concerned the tariff bill is not going to be laughed into conference or laughed through conference.

In this paper on The Politics of Tariff Making I discuss some practices which to my mind have retarded rational and scientific tariff making. Part of the discussion is on the origin of and responsibility for the practice of excluding minority members of the Ways and Means Committee from participation in writing tariff bills.

The SPEAKER pro tempore. The gentleman will please state his request.

Mr. RAMSEYER. Well, for the purpose of discussing what is in the paper I have referred to, I ask unanimous consent that, on Saturday, after the reading of the Journal and the disposition of matters on the Speaker's table, I may have one hour.

The SPEAKER pro tempore. The gentleman from Iowa asks unanimous consent that, on Saturday, after the reading of the Journal and the disposal of matters on the Speaker's table, he may address the House for one hour. Is there objection?

Mr. SNELL. I suggest to the gentleman that opportunity will be given in general debate.

Mr. MAPES. Reserving the right to object, Mr. Speaker, I do not like to object to the request of the gentleman from Iowa, but it seems to me that until the legislation now pending before the House is completed we ought not to grant any more unanimous-consent requests for time. It may be that the pending legislation will be through by Saturday. That may be possible. And it may be that it will not. I suggest that the gentleman ask for time later.

Mr. RAMSEYER. I would like to have a definite and certain time. We have taken two hours this morning in the discussion of the tariff. The gentleman from New York [Mr. CROWTHER] in his speech indulged in reflections on the tariff views of the Northwest.

Mr. MAPES. If the gentleman will amend his request to some time next week, I will not object.

Mr. RAMSEYER. Very well; then I will amend my request and ask unanimous consent to address the House on Monday next.

The SPEAKER pro tempore. The request of the gentleman is modified to ask unanimous consent to address the House for one hour on Monday next. Is there objection?

There was no objection.

ADDRESS OF HON. JAMES G. STRONG OF KANSAS

Mr. COLE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and include therein an address on farm relief made by Hon. JAMES G. STRONG over the radio.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa [Mr. COLE]?

There was no objection.

Mr. COLE. Mr. Speaker, under leave to extend my remarks in the RECORD, I include an address delivered by Hon. JAMES G. STRONG of Kansas on A Square Deal for Agriculture, delivered over the National Broadcasting hook-up, Wednesday, March 19, 1930.

The address is as follows:

A SQUARE DEAL FOR AGRICULTURE

The unfair treatment given the farmers that produce the food of the Nation, before, during, and after the World War, brought disaster to the agricultural industry which for nine years the Government has been trying to overcome and correct.

I will refer to these wrongs briefly:

First, the Underwood tariff bill of 1913, passed under the Wilson administration, placed farm products upon the free list. The seriousness of this wrong to agriculture did not become fully apparent until after the World War for the reason that the starting of war in Europe in 1914 brought war prices and prevented the shipment of agricultural products into this country, and delayed until the war was over the flooding of our markets with such products from other countries.

Second, by Governmental action during the war a limitation was placed upon prices of food products, which prevented farmers receiving the full benefit of war prices, while they had to pay highly inflated prices for everything they purchased from other industries, on which no price limitations were set.

Third, during the war Government representatives appealed to the patriotism of the farmers and urged them to increase their production in order that not only our Nation, with the 4,000,000 men that had been called to the "colors," would have an ample supply of food, but that our allies might also be properly fed. The farmers were told that while our young men could fight and win battles, food would eventually win the war. This caused the farmers to broaden and extend their activities and increase their production, forcing them to extend their credit in order to do so.

When the war came suddenly to an end they were in debt. Soon their loans were called and they were forced to sacrifice their grain and stock upon a deflated market.

Fourth. After the war this Nation had the only cash market in the world and food products of other nations were shipped here, duty free. Butter from Norway, Denmark, and Sweden supplied the cities on our eastern coast; eggs by the shipload from China came in through our western harbors; wheat, milk, cream, cheese, chickens, and turkeys were shipped in from Canada; sheep and wool from Australia; corn and cattle from Argentina; our markets were flooded with such products and agriculture was in distress.

Fifth. In 1920 came the deflation which caused a million farmers to lose their farms and the entire industry was prostrated.

I realize that other industries also suffered from the deflation that followed the war, but they were better organized and through trade agreements and credit they were able to secure from money centers, did not suffer in comparison with agriculture.

These unfair conditions that I have mentioned so demoralized agriculture that Congress has sought by legislation to repair the wrong that had been done and to restore prosperity to this great industry.

In 1920 the farmers' emergency tariff bill, restoring tariff protection to agricultural products was passed by Congress but was vetoed by President Wilson.

In 1921 the same tariff relief for agriculture was again passed by Congress and was signed by President Harding.

The Federal farm loan system was improved and broadened to enable the farmers to secure loans upon their lands at reasonable rates of interest.

The 12 intermediate credit banks were established in order that short-time loans of 1 to 3 years could be made on agricultural products.

In all, over 30 laws have been passed to try to restore agriculture as a profitable industry, but though agricultural prices and conditions were greatly improved, agriculture, through being compelled to pay high prices for its needs, while farm products did not bring a fair return, failed to regain that prosperity which other industries enjoyed.

The hardest problem to solve has been that of maintaining compensatory prices on agricultural products produced in excess of American consumption, which had to be sold on the world market and through improper marketing forced down the American price below the cost of production.

Various plans were proposed, one being the buying up of such surplus by a Government agency and selling the same upon a world market while maintaining a higher and compensatory price in this country. An amount was to be deducted from the price paid every producer in proportion to the amount of the product produced in order to create a fund to equal the loss between the American price, and that proportion of the product sold on the world market. This proposal was carried in a bill introduced in the Sixty-ninth Congress.

In the Seventieth Congress it was greatly improved and the amount to be collected from the producer became known as the equalization fee. It was a plan whereby the Government was to enforce cooperative marketing by the producers, collecting the equalization fee on all products so marketed. There was much dispute as to whether or not such a plan could be enforced under our Constitution, and constitutional lawyers were divided in their opinion, many holding that our Constitution would not permit the Government to force American producers to pay this fee. Other provisions of this proposed legislation were similar to the present law passed during the special session of this Congress. I, with a majority of the Members of the House and Senate, voted for such legislation, but it was vetoed by President Coolidge.

A plan to pay to exporters of agricultural products an amount equal to one-half of the tariff was also suggested. Objections were made, many holding that other nations would levy an import tax equal to the amount so paid our exporters, which would result in transferring the amount so paid from our Treasury to that of foreign governments without helping our producers; some claimed that the amount paid the exporters would not be passed back to the producer, while others and a majority of the farm organizations opposed it on the ground that it was a subsidy. This was called the debenture plan, but it has never received sufficient votes to pass both Houses of Congress. It has been placed in the tariff bill by an amendment in the Senate which provides that it may be used only at the option of the Federal Farm Board, but whether it will again come up for a vote in the House can not at this time be determined.

In the campaign of 1928 both parties pledged themselves to legislation that would give further relief and a square deal to agriculture, by making possible the establishment of an American price that would bring a fair return to the farmers of the country.

The Republican Party was fortunate in having a candidate born in the center of the great food-producing States of the Union, one who had inherited from his Quaker parents the character of honesty and the belief that honest toil brought the greatest reward of life. Left an orphan in his youth, he grew up in a rural community with a knowledge of agricultural conditions and worked his way through college in California, becoming an engineer of such ability that he was employed in great projects in Australia, then China, and then Europe, gathering experience in world affairs.

When President Wilson desired a food administrator for the United States, on our entering the war, he was selected for such position. President Harding appointed him as Secretary of Commerce, to which position he was reappointed by President Coolidge. This department of our Government he so developed and improved as to enable the upbuilding of our export trade throughout the world. His statement that he would devote himself to the relief of agriculture was followed by the statement that, if elected, he would call the Congress together in special session for such purpose.

He was elected by the greatest majority ever given any President, and when he entered the White House it was generally acknowledged that he was the best equipped American who had ever been elected to the Presidency.

The month following his inauguration, he carried out his promise and called Congress in special session. The opening words of his message were, "I have called this special session of Congress to redeem two pledges given in the last election—farm relief and limited changes in the tariff."

The Committee on Agriculture of the House promptly reported a bill creating the Federal Farm Board, and giving it broad powers to create farmer owned and farmer controlled marketing associations, and stabilizing organizations to be financed by $500,000,000 from the Government Treasury. This bill was promptly passed by the House and Senate and signed by President Hoover, and it has been truly said that no government in the history of the world ever endeavored to serve any industry to the extent of this legislation for agriculture.

A tariff bill was reported out of the Ways and Means Committee of the House that has brought much criticism. Unfortunately, it went far afield from that suggested by the President, for in addition to complying with his suggestion of "limited changes in the tariff," intending to increase import duties on agricultural products and the products of those industries that were in distress, it sought to increase import duties on a large number of industrial products that were not in distress.

Had industry been willing to accept the suggestion of the President and had urged their representatives in Congress to have passed a tariff bill for the relief of agriculture, as was done in 1921, months of debate and contest would have been avoided. The tariff bill would have been passed during the special session, and in this regular session the further needs of industry would have been cared for, as was done in 1922.

Much criticism has been made throughout the Nation because of the fact that the tariff bill was passed through the House subject only to amendment by the Ways and Means Committee, which has been the manner in which tariff bills have been passed through the House by both political parties, but it must be remembered that in the House the representatives of industrial States outnumber and hence outvote those of agricultural States. The representatives of agricultural districts who had appeared before the Ways and Means Committee in the drafting of the bill, made a successful fight for increased rates upon agricultural products, but had to trust to the Senate, where agricultural States have the same number of votes as industrial States, to reduce the rates that had been placed on the industrial products that were in excess of the President's recommendation.

I voted for the bill, as we were forced to consider it, with the great majority of the representatives of agricultural districts, because the study I had made of the measure convinced me that its greatly increased rates for agriculture were the best ever carried in any tariff legislation. I know that percentages of increases in the rates given industry have been used to make it appear that they exceeded those given agriculture, but it must be remembered that our agricultural products are sold by the farmers of the Nation every year, while most all the articles they require of industry are purchased only from 5 to 20 years; for instance, agricultural machinery lasts the farmer for a period of from 5 to 10 years, and building materials from 10 to 20 years or more. The increased rates must be divided by such number of years.

To satisfy myself I took the bill and turned through it page by page, charging the dairy and stock farm of 320 acres that I own and operate in Kansas, and on which there are five people, with all of the tariff increases on the materials I must buy each year from industry and then went through the bill again and gave my farm credit for only half of the tariff increases of the products I produce and market annually, and I found that the benefits that would accrue to my farm would outweigh those I would have to pay over 11 to 1.

When the bill went to the Senate its Finance Committee took two months to consider and amend the bill and for six months it has now been considered upon the floor of the Senate where it was subject to amendment. A number of industrial rates have been reduced and some of the agricultural rates increased. When the bill is passed by the Senate it will go to the conferees of the two Houses, consisting of six Republicans and four Democrats from the following States: Oregon, Massachusetts, New Jersey, Texas, Mississippi, Utah, Indiana, Pennsylvania, California, and Mississippi, who have served in Congress from 8 to 29 years. These men have helped to prepare many tariff bills and are the best experts in the Nation on this subject, and I believe that when they have agreed upon the bill it will be one of the best that the Nation has ever had. I am quite willing to admit that it will contain rates that can be pointed out as objectionable to both agriculture and industry and if I had the right to make changes I would increase a number of agricultural rates and reduce a number on industrial products, but it will contain the best rates for agriculture ever passed by any Congress, and I believe that on the whole it will bring increased prosperity to agriculture and our entire Nation.

I realize that there will be much criticism of the attempt of the Federal Farm Board to build up for agriculture marketing organizations with the purpose of securing better prices for the farmers of the Nation. Already the grain exchanges in the large cities have sent out much propaganda against both the legislation and the board's activities under the same. This was to be expected since that portion of farm products marketed by farmers cooperative marketing associations will deprive them of some commissions but it should be remembered that the farmers of the Nation have in the past labored under the greatest handicap ever endured by any industry. While they have been proficient in production they have had no control over the sale of their products. No other industry could exist under such conditions. The hope of agriculture lies in correcting this wrong.

Undoubtedly the market has recently been manipulated to embarrass the Farm Board and if the farmers are asked to reduce the acreage they plant to wheat, and plant other products, such advice will be used to spread dissatisfaction. But I believe the farmers of the country will not be misled and others ought not to be, for the President in his message last April stated, "The pledged purpose of such a Federal Farm Board is the reorganization of the marketing system on sounder and more stable and more economic lines." I congratulate the farm organization on their loyal support of the Farm Board.

It was the intention that the Federal Farm Board was to make it possible for those engaged in agriculture to organize and operate farm associations that will market their products, or such portion thereof as may be necessary, in an orderly manner and, through cooperation with the Federal Farm Board, have some voice in the price for which their products may be sold. These organizations are to be financed at low rates of interest, the same as the organizations of industry secure. We have already appropriated $150,000,000 of the $500,000,000 authorized in the farm bill, and under the recommendation of President Hoover we will soon appropriate $100,000,000 more, and if necessary the balance of the $500,000,000. And let me say to industry that if agriculture can be brought to a prosperous condition, where it may earn a fair return, its buying power will be so increased that industry will profit and the whole Nation be amply repaid.

Mistakes may and undoubtedly will be made by the Federal Farm Board; some rates in the tariff bill will be unsatisfactory; much of propaganda and politics will be indulged in; the stock-market crash, the stagnation of the winter months, the delayed uncertainties of the tariff bill have all caused temporary unemployment that will be charged against the effort of Congress to give a square deal to agriculture and all industry.

But it must be considered that we are a Nation covering a continent; our people are engaged in the production and manufacture and transportation of products that are in conflict one with another; but we must be charitable and just and follow the command of the Master, "to do unto others as we would have others do unto us," if our Nation as a whole is to prosper, remembering that in spite of all the mistakes and errors that may be pointed out in the conduct of our Government, that, nevertheless, we are as a whole the best fed, the best housed, the best clothed, and the best entertained people that ever existed upon the earth.

I am not discouraged. I believe that all the legislation and efforts of the past nine years will bring to agriculture a square deal, to which it is entitled, and that it will again become a profitable industry. I believe without doubt that when the tariff bill is passed that industry will revive and unemployment cease.

Let us all do our part.

COMPLETE EQUALITY OF CITIZENSHIP SHOULD BE THE LAW OF THE LAND

Mr. CABLE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD to include a radio speech that I gave last night on the subject of woman citizenship.

The SPEAKER pro tempore. The gentleman from Ohio asks unanimous consent to extend his remarks in the RECORD to include a speech made over the radio on the subject of woman citizenship. Is there objection?

There was no objection.

The speech is as follows:

Each Member of the House of Representatives recently received a letter from an attorney whose alien client was not permitted to enter the United States because she was not able to pass the tests of the 1917 immigration act. Seeking to amend the women's citizenship law, so that his client could be admitted, the attorney wrote:

"Neither Congress nor the American people have a full sense of the import of the act of 1922, which was invoked by the legal arm of the Government."

It was the immigration law, and not the 1922 act granting independent citizenship to women, that prevented his client from coming to this country. If that attorney had known of the discussions and consideration of the unjust discriminations in our citizenship laws affecting women, which brought about the 1922 act, he would not have so circularized Congress.

In 1907 Congress had passed an expatriation act providing, in part, that any American woman who married a foreigner should take the nationality of her husband and cease to be an American citizen. If the laws of her husband's country did not vest her with his nationality, she became a woman without a country. No consideration was given her wish or desire in regard to nationality. She was

automatically deprived of the right of protection by the United States while she travelled or lived outside of this country. She lost all right of suffrage, of holding office, either by election or appointment, the right to participate in governmental affairs and, in many States, she lost the right to hold or inherit property, to teach in the public schools, practice a profession, or to carry on many of the other vocations of life.

The reverse was not true—the native-born man who married an alien, even though he went to live in the country of his wife, did not have his citizenship status taken from him. Then, too, the alien woman whose husband was naturalized, or the alien woman who married an American, automatically acquired that which the native born lost—American citizenship—without regard to her wish or qualification.

The battle for equal citizenship rights began many years ago. Jeannette Rankin, the first woman Member of Congress; John Jacob Rogers, a Representative from Massachusetts; and others introduced bills to abolish the unjust discriminations existing under the 1907 act. Inasmuch as Congress failed to legislate on these bills, the women of the country appeared, represented by their leaders, before the national conventions of the Republican and Democratic Parties in 1920 and secured the adoption of a pledge, which was included in the platforms of both parties and which reads as follows:

"We advocate, in addition, the independent naturalization of women. An American woman resident in the United States should not lose her citizenship by marriage to an alien."

Backed by this pledge of the major parties and indorsed by such national women's organizations as the American Association of University Women, National Federation of Business and Professional Women, Council of Jewish Women, General Federation of Women's Clubs, National League of Women Voters, National Woman's Party, National Trade Union League, and the Woman's Christian Temperance Union, Congress desiring to give the citizenship status of American women the dignity and individuality of that of American men passed the bill granting independent citizenship rights to women.

That bill was signed by President Harding on September 22, 1922, and is commonly known as the Cable Act of that date.

Independent citizenship rights for women, expressed in the 1922 act, was not a new idea in the United States. Prior to the 1907 law, even though an American woman married an alien, if she continued to live in the United States, she did not cease to be an American citizen. So held Charles Evans Hughes when he was Secretary of State. Likewise not until 1855 did the marriage of an alien woman to an American make her a citizen of this country. Before the enactment of these laws marriage alone did not affect a woman's nationality, so far as the United States was concerned.

Thus, the attorney mentioned clearly is in error in his statement, for both Congress and the American people fully realized the import of the women's citizenship act of 1922, and fully contemplated the results of the operation of that act.

That law provides, in part, that a woman citizen shall not cease to be a United States citizen by reason of her marriage after the passage of the act, unless she make a formal renunciation of her citizenship before a court having jurisdiction over naturalization of aliens. On the other hand, any woman who has married a citizen of the United States, or whose husband has been naturalized, since the passage of the 1922 act, has not acquired United States citizenship by reason of her marriage or her husband's naturalization. This citizenship law is a step in the right direction, but it does not grant complete independent citizenship rights to women, and there should be some perfecting amendments.

For example, the law now requires one year's permanent residence in the United States before a native-born woman, who has lost her citizenship because of her marriage to an alien, can regain her American status. Why should the woman who may have married a day before September 22, 1922, be placed at a great disadvantage, a disadvantage which is not suffered by the woman who happened to marry the day after the act became effective, and thereby retained her United States citizenship?

Take the case of Mrs. Emily Martin. She married an alien before the 1922 act was effective, and her American citizenship was automatically taken from her. Later she returned to this country, resided here a year, and then, because she told the court she might reside outside the United States with her husband and children, the court found her residence here was not permanent, as required by law, but was temporary, and the court denied her the right to regain United States citizenship.

I have introduced a bill, H. R. 10208, now pending before the Committee on Immigration and Naturalization, to permit any woman who lost her citizenship by reason of her marriage to an alien before the 1922 act, to go before a court and regain that citizenship, irrespective of the character of her residence in the United States. It could be either temporary or permanent, and a day's residence would be sufficient.

That bill, if enacted into law, also would repeal the provision requiring a woman who has lost her citizenship to go through regular naturalization proceedings. Mrs. RUTH BRYAN OWEN, for example, married a British officer before 1922, and lost her American citizenship through no fault or desire of her own.

After the war, she returned to this country with her husband, and was required to submit to the same naturalization proceedings to regain her American citizenship in a Florida court, as one who had never been a citizen of the United States. This is not a just requirement of a native-born woman who had her citizenship taken away by the provisions of the 1907 act. A simple affirmative act should be sufficient to regain the citizenship lost by a native-born woman because of her marriage.

There are women whose American citizenship was lost by marriage prior to the 1922 act, who can not now return to the United States to regain their former nationality because of our immigration quota law. Since a woman in this situation is counted in the quota of her husband's country, if the quota allotted to his nationality is exhausted, she can not return to the United States to be repatriated. To come here temporarily as a visitor will be of no benefit, as the law now requires her residence to be of a permanent character, before she can regain American nationality. The permanent-residence requirement in the cases of such women should be repealed, and our immigration laws should be amended to permit her to be admitted without regard to the quota.

The present law provides that an American girl who marries an alien ineligible for citizenship shall become ineligible also. She becomes a woman without a country. An ineligible alien usually means one of the yellow race. No such law applies to the American man. If he marries an alien ineligible for citizenship he continues to be an American citizen. Why should there be one rule for the man and another for the woman? Both are American citizens.

H. R. 10208 would eliminate this unjust discrimination.

If a native-born man marries an alien and resides abroad in her country the remainder of his life he does not cease to be an American citizen. Their children, although they are born abroad and never come to the United States, likewise are American citizens. But if a native-born woman marries an alien and resides two years in his country, or five years elsewhere abroad, she is presumed to have ceased to be an American citizen. Again I ask, why should there be one rule of law for men and another for women?

Complete equality in citizenship should be the law of this land. There is no reason for distinctions between men and women in the nationality laws of the United States. A native-born woman has the same loyalties and should have the same rights to nationality as a man. She should have, as the man has, the right to select the country of her choice.

In view of the great alien population in this country and the resulting marriage between alien men and American women, on the one hand, and between American men and alien women on the other, the question of nationality rights is of peculiar significance. The status of these women depends not only upon the laws of this country, but also upon the nationality laws of many other countries. To abolish all distinctions between the sexes, the question of nationality must be dealt with internationally by means of treaties.

The conference for the codification of international law, now in session at The Hague, was called only after it was determined that certain subjects were ripe for consideration. The conference will discuss and undertake to codify the law on three important subjects: Nationality, territorial waters, and the responsibility of States for damage done to the persons or property of foreigners within their territory.

Nationality includes that of greatest importance—citizenship of women.

More than 50 countries have sent delegates to this conference at The Hague. One is Mrs. Ruth B. Shipley, Chief of the Passport Division in the Department of State, and a technical advisor is Dr. Emma Wold, of the National Woman's Party.

I hope our delegates will bring back a treaty providing, in substance, that there shall be no distinction based on sex in regard to the law on nationality. We should bear in mind, however, that this subject involves the laws of many countries, is of the greatest magnitude, and that on it there is the greatest divergence of opinions.

There are only five nations dealing equally with men and women in the effect of marriage on nationality. In 81 countries a man's marriage has no effect whatever on his nationality; while on the other hand, in the entire world there are but nine countries in which marriage does not change a woman's nationality without her consent. In the nationality laws of the world, six different systems are found to prevail in regard to the effect of marriage on a woman's nationality. In 28 countries the wife is compelled under all circumstances to lose her nationality and take that of her husband, while his is not changed by marriage.

In two countries, Andora and Japan, the husband is compelled, under certain circumstances, to take the nationality of his wife. These various laws have resulted in situations wherein the woman who marries a man of foreign nationality may find herself a woman with two

countries, or of dual nationality, and subject to the tax and other laws of both countries.

On the other hand, some women who lose their nationality under their own laws, because of marriage, and who do not acquire the nationality of their husbands, find themselves stateless and without the right of protection, passport, and many other conveniences. They are women without a country.

These facts show the stupendous task that confronts the delegates at The Hague in their attempt to harmonize the nationality laws of more than 80 different countries.

By adopting the 1922 act, the United States made known to the world that the nationality of its women should not be made an incident of marriage. Our Nation can not, through its delegates at The Hague, take a backward step; the other nations must go forward.

If sufficient progress is not made at The Hague in the matter of reaching some agreement tending toward equal citizenship rights for women, I will press for passage my resolution requesting President Hoover to call a conference of representatives of all governments of the world to meet at Washington, D. C., to consider and adopt a convention on the nationality of women, which will pronounce for all nations the principle that a woman should have the same right to independent nationality as a man.

To the leaders of the great women's organizations I have mentioned, is due the credit for the 1922 act. Their faith and confidence in the principle of equal citizenship rights, expressed in that law, have been vindicated. The law has stood the test; it has justified itself.

Let Congress again accept the wisdom of these women, by enacting perfecting amendments to the act of 1922. Then will the law stand as a model to be copied by the delegates at The Hague. Let us hope that when our delegates return they will bring back with them an agreement embodying the principle that a woman should enjoy the same nationality rights as a man.

FARM RELIEF

The SPEAKER pro tempore. Under the special order of the House the gentleman from Louisiana [Mr. MONTET] is recognized for 20 minutes.

Mr. MONTET. Mr. Speaker, the question of farm relief addresses itself to us with ever-increasing intensity.

These remarks are not only addressed in the interest of farm relief, but also as a suggestion for the improvement of the general health and, if heeded, to give added enjoyment to the American dinner table.

The general use that can be made of most edible farm products is already well known. The consuming public more or less understands the various methods and recipes satisfactorily used in the preparation of wheat, oats, barley, rye, corn, and their products, but there is one splendid food article grown in great quantities in this country with which, generally speaking, the American public is not familiar as to the best methods of its preparation for table use. If the public were as well versed in the proper cooking of this food as are those in the locality where most of this crop is grown, there would be little or no surplus demanding the attention of the Federal Farm Board, as it is one of the most delicious, sustaining foods grown on American soil. Properly prepared, its daily use not only improves the general health but also tends to reduce the cost of living. It is a cheap food article, and when the housewife learns of its deliciousness through proper cooking, it will become a popular dish in all American homes. This food is none other than rice.

This country produces some 40,000,000 bushels of rice annually. In 1929 continental United States produced 40,217,000 bushels, and of this Louisiana produced 19,352,000 bushels. For some years Louisiana has annually produced over 40 per cent of the rice grown in this country. The people of that State are by far the largest per capita consumers of rice in the United States, all because one finds there methods for its cooking that make it a most delicious food, enjoyed by all and denied to none.

When one leaves that section of this great country and finds rice on the dinner table it is usually served in broths, soups, and custards with a smatter of raisins and other mixtures whereby the real deliciousness of the food does not prevail. While rice is served daily on the tables of practically all Louisianians, its delightfulness is never overshadowed by a predomination of raisins, nutmeg, or milk. It is prepared in the manner hereafter explained, served with every dinner, brought to you in a large dish, and eaten with chicken, beef, ham, or other gravies and vegetables.

Louisiana is known for its cooking, and no Louisiana meal is ever complete without delicious rice and gravy, and besides it adds a dish which is not costly by any means. As a satisfactory, wholesome, and sustaining food, rice has no substitute when properly prepared. When the American housewife is out of Irish potatoes or even bread, if she will serve a dish of this rice I am satisfied that she will find it a desirable substitute and thereafter serve it along with her Irish potatoes, and so forth, upon which to spread her tasty gravies.

The preparation and cooking of rice to serve with gravies is not an intricate performance requiring any particular culinary talent.

Wash one cup of rice thoroughly. Wash the rice in at least four or five waters or until thoroughly cleansed. Bring two cups of water to a boil. Add one teaspoon of salt. Then add the rice to boiling water gradually so as not to stop the boiling. Let boil for four minutes. Then cover the pot and cook very very slowly for 20 or 30 minutes. Remove it from the fire, let stand for five minutes, and when served every grain will be separate. If a double boiler is used, the rice will be whiter and drier but will take longer to cook. If the rice is fresh, slow cooking for 20 minutes will be sufficient, but it is always very simple to determine when the rice is cooked by rolling two or three grains between the fingers. If the grains are soft and not gritty the rice is cooked.

In the absence of gravy, it is also very delicious if butter is spread thereon.

This is the famous Louisiana recipe for cooking rice. It is well known that the Louisiana housewife has made cooking an art. She has discovered that rice with its perfect blending quality makes meals more delicious as well as more nutritious and more easily digested.

Let me add here two or three other recipes which are very popular in New Orleans and throughout Louisiana, and which, as you know, is the home of famous Creole cooking.

Let the American wife enjoy Creole rice, which is prepared as follows:

One and one-half cups rice, 3 cups water, 1 teaspoon salt, 2 tablespoons bacon fat, 5 slices bacon (or as much fat ham), ½ cup chopped onions, 2 cloves, garlic (if desired), 3 fresh tomatoes (or one No. 1 can tomatoes), 2 green peppers, minced.

Boil rice for 15 minutes.

Fry bacon or ham crisp brown, chop into rice. Fry onions, garlic, and green peppers in bacon fat; add tomatoes. Cook five minutes; add seasonings, then add to the rice. Mix well, cover, and cook slowly for 20 minutes. Garnish with parsley and two or three crisp brown slices of bacon.

Note: Left-over chicken, turkey, or roast may be used instead of bacon or ham.

On some other occasion try the rice tamale which is prepared as follows:

One cup cooked rice, 6 to 8 outside leaves of cabbage, 8 toothpicks, 1 cup ground meat, one-third cup chopped onions, one-half teaspoon cayenne pepper, 1 No. 2 can tomatoes, one-half teaspoon salt, 2 tablespoons bacon grease.

Pour boiling water over the cabbage leaves. Let stand five minutes. Remove from water and drain. Mix the rice, onion, meat, pepper, and salt. Fill each cabbage leaf with part of the mixture. Roll the leaf and fasten with toothpicks. Place in a baking dish, and pour over them the can of tomatoes and the grease. Bake 20 minutes.

And for those who like myself enjoy the popular dish known as red beans and rice, try the following:

One cup raw rice; 1 pound red beans, soaked over night; one-half pound salt meat cut in strips, one for each serving; 1 onion, leave whole so it can be removed after cooking if preferred. Seasoning to taste.

Cook beans, salt meat, onion, and seasoning together with enough water to cover well, until beans are cooked so well that they fall to pieces. Add enough water from time to time so that there will be plenty of thick rich gravy. Serve with the cooked rice.

This is a meal in itself, and is delicious when prepared the "Louisiana way."

And rice vegetable casserole is prepared as follows:

One cup peas, 1 cup corn, 2 tablespoons minced onions, 1 teaspoon salt, 2 cups cooked rice, 2 strips bacon, 1½ cups milk, one-fourth teaspoon pepper.

Place in layers in greased baking dish; when casserole is filled, add milk. Place bacon strips on top and bake until brown.

Those interested in tomatoes may also encourage the further use of tomatoes by suggesting the following for a rich tomato soup:

One cup rice, 1 cup tomatoes, 1 onion, 1 teaspoon salt, one-half teaspoon pepper, 4 cups boiling water, 1 tablespoon butter, 2 tablespoons flour, one-half teaspoon celery salt.

Put rice and sliced onion into boiling water. Cook until tender. Add tomatoes. Press through sieve. Brown the flour in butter and add to the rice mixture. Season with salt, pepper, and celery salt. Serve hot with croutons. Garnish with chopped parsley.

The kiddies can also come in for their share of enjoyment by serving them a supper of boiled rice, cream, and a bit of sugar. The light, fluffy grains are easily and quickly digested. All children will love their rice and you may rest assured it will not disturb their slumber.

I could give a number of other recipes, but the foregoing are most enjoyed by both rich and poor in the land of the famous Creole cooking.

Mr. LANKFORD of Georgia. Does the gentleman think there is any better way of cooking rice than that used in the State of Georgia, merely cooking the chicken and rice together?

Mr. MONTET. I have such a recipe here.

Mr. LANKFORD of Georgia. If the gentleman has any improvement on the plan we have in south Georgia, I would like to see it.

Mr. MONTET. I have here a recipe which provides for that method of cooking.

Mr. GLOVER. Will the gentleman yield?

Mr. MONTET. I yield.

Mr. GLOVER. I am very much interested in the gentleman's discussion of rice, because the great rice fields of Arkansas are in my district. And, while the gentleman has recipes for cooking it, I do not think the Louisianians can cook it like they can in Arkansas.

Mr. MONTET. Of course, we Louisianians do not agree with the gentleman.

Mr. GLOVER. What I would like to ask the gentleman is if the rice people of Louisiana have made a study of how they can use the by-product, so called, the rice straw, as provided for in this last bill? Provision was made there, I understand, for a board to make a careful study of the various uses to which the by-products of farm growth may be put.

Mr. MONTET. In answer to the question of the gentleman, we have in Louisiana some mills which are manufacturing paper in great quantity out of rice straw. Experiments are now being carried on to discover further and different uses for rice straw.

Mr. GLOVER. I am very much interested in that. There was recently a statement made by a secretary of a chamber of commerce in the rice belt of my State, which states that 100,000 tons of rice straw is going to waste in that small territory that could be used in the manufacture of paper.

Mr. MONTET. A great deal of rice straw goes to waste in the State of Louisiana also. However, a satisfactory method of making paper has been discovered. Other experiments are being made in order to consume the remainder of the rice straw now going to waste.

Mr. LINTHICUM. Will the gentleman yield?

Mr. MONTET. I yield.

Mr. LINTHICUM. Coming from the gastronomical center of the universe I should like to ask the gentleman from Louisiana if he thinks rice would take the place of nice Maryland fried chicken with green corn cakes around it? Does the gentleman think there is anything equal to that?

Mr. MONTET. The gentleman's dish would be wonderful if he only added rice, cooked in the Louisiana way.

Mr. O'CONNOR of Louisiana. Did I understand the gentleman from Maryland to state that Baltimore was the gastronomical center of the universe instead of New Orleans?

Mr. MONTET. I believe my original remarks will show where that center is. Everybody knows it is New Orleans and Louisiana.

Rice is a cheap food. Its cost is very little, its nutritive value is undeniable, and if the thousands in whose homes these recipes find their way will avail themselves thereof, I not only look for the definite settlement of the rice growers' surplus crop troubles but rice will become an article to be found on the American table daily, much to the delight of those partaking thereof and the improvement of their health. [Applause.]

TAX REFUND

The SPEAKER pro tempore (Mr. HOOPER). Under the special order of the House, the gentleman from Oregon [Mr. HAWLEY] is recognized for 30 minutes.

Mr. HAWLEY. Mr. Speaker, I appreciate the courtesy of the House in according me an opportunity to discuss the refund to the United States Steel Corporation for the years 1918, 1919, and 1920 in particular, and the subject of tax refunds in general.

The gentleman from New Jersey [Mr. BACHARACH] addressed the House Tuesday in an excellent statement, and I will endeavor not to traverse the matters he presented.

The gentleman from Texas has twice spoken to the House on the subject, and with his presentation both myself and the facts are in general disagreement.

The refund to the United States Steel Corporation for the year 1917 case was disposed of a year ago, and in a manner eminently satisfactory. The pending case involves the years 1918, 1919, and 1920. For these three years the United States Steel Corporation filed returns showing a taxable net income in excess of $823,000,000. On this return, they paid a total tax for the three years of approximately $304,000,000.

The soundness of the present settlement can be easily illustrated by comparing the original taxes paid with the tax liability as determined in the final settlement. As I have stated, the original taxes paid were approximately $304,000,000. The final determination shows a tax liability in excess of $312,000,000. In other words, the final settlement increases the tax liability for the three years by more than $8,000,000.

The final settlement may also be considered from this point of view: A suit is now pending in which the taxpayer claims a return of approximately $130,000,000 for the three years, including interest. This suit is being settled by a refund of about $33,000,000, including interest—approximately one-fourth of the amount claimed.

Using the four years, 1917, 1918, 1919, and 1920, as a basis, the original tax liabilities total $503,000,000. The final tax liabilities total $485,000,000, showing a net reduction in tax of about $18,000,000, or less than 4 per cent of the total, notwithstanding the large refund for 1917. In other words, the final settlement is equivalent to a refund of less than $2,000 on a tax of more than $50,000.

There are two principal issues involved in the pending case: The determination of the proper amortization allowances, and the computation of consolidated invested capital. Both these issues and others were discussed in detail before the Joint Committee, and I do not believe it is necessary to discuss them now. For the benefit of those, however, who are interested, I am incorporating my remarks in a memorandum discussing the issues in detail and explaining the basis upon which they were settled. I have an earnest desire that the longing of the gentleman from Texas for information be satiated.

Briefly, then, we have this situation with reference to the refunds to the Steel Corporation: The 1917 case was disposed of more than a year ago and is no longer an issue. The pending case has been examined and approved by the Treasury officials; the Treasury decision has been reviewed and examined carefully by the staff of the joint committee and all questions answered; and the case has been explained in detail to the joint committee and ample opportunity has been afforded to every member of the committee to ask for additional information or to raise questions. Mr. Alvord, the special assistant to the Secretary of the Treasury, was present with the committee during its sessions. I believe that practically the entire membership of the House know him and have confidence in his ability and integrity. He has reviewed the entire case and has approved it. In addition, Mr. Alvord explained the important issues in the case and answered all questions to the satisfaction of those present. He was available and ready to answer any further questions which any of the committee cared to ask. He explained in detail to the committee every question raised by the staff in its tentative report and every question raised by any member of the committee. Some of the questions involved in these refunds required an investigation for a preceding period of some 60 years. After the most exhaustive examination we have a proposed settlement as to which no specific criticism has been made by any Member of Congress. No objection has been raised as to any material point in the settlement. Furthermore, it is the opinion of those familiar with the case that the proposed settlement is a very conservative one from the point of view of the Government, and represents a substantially smaller amount than could be recovered if the taxpayer were forced to litigation, giving no consideration to the expenses of the litigation and the intervening interest costs.

I think the following table will present the matter more clearly to the eye:

United States Steel Corporation adjustment of tax for years 1918, 1919, and 1920

A. Original and final tax:	
Tax paid as per original returns	$304,000,000
Final total tax collected	312,000,000
Collection due to Government audit	8,000,000
B. Additional assessments and refunds:	
Additional assessments for 1918, 1919, and 1920, made in 1926 and 1928, based on tentative and inaccurate determinations	29,000,000
Refund of principal now made on final determinations	21,000,000
Balance of additional assessments retained	8,000,000

When the refund to the United States Steel Corporation for the year 1917 was under consideration by the Joint Committee on Internal Revenue Taxation, all members of this committee were present except one. The Treasury presented the case, and in the course of the discussion said that the principles used in determining the refund for 1917 would be followed in deciding those for the years 1918, 1919, and 1920, unless the joint committee disapproved, and assumed the responsibility for the use of different methods. The Treasury also indicated at the hearing in December, 1928, the approximate amount of refunds to the United States Steel Corporation for the years 1918, 1919, and 1920, which amount was nearly the same as reported for our recent consideration. The gentleman from Texas has had a year's notice of what the Treasury proposed to do.

But during the past year I do not recall that the gentleman from Texas proposed that the joint committee meet to consider any basis for settlement other than those announced by the Treasury.

At the conclusion of the hearing on the 1917 refund the gentleman from Texas was challenged to move that the Treasury's proposal for that year be rejected, and this he refused to do. Nor did he move to reject the settlements proposed by the Treasury for the years 1918, 1919, and 1920, although the chairman made the usual statement, "What will the committee do?"

That is, at the time and place where opposition could be effectively made, he refused to act.

I desire by way of emphasis to call to the attention of the House and the whole United States the fact that at the hearing in December, 1928, on the proposed refund to the United States Steel Corporation for the year 1917 the Treasury stated that if the joint committee disapproved the proposed settlement, assuming the responsibility for the ultimate outcome, the Treasury would refuse to make the refund and settle the case through litigation. A Senator then challenged Mr. GARNER to propose the rejection, and this Mr. GARNER declined to do. That is, the hour had struck for action, but there was nobody at home. Why should a man complain of others that in his imagination they do not do thus and so, for lack of courage, when he refuses to accept responsibility and propose the action he says he believes should be taken.

I think it is quite clear from the course of this discussion that I have accepted the responsibility that my service on the committee necessitates and act as I believe the facts warrant.

I desire again to call the gentleman from Texas [Mr. GARNER] to the bar.

On February 18, 1930, the gentleman from Indiana [Mr. WOOD], chairman of the Committee on Appropriations, asked unanimous consent for immediate consideration of House Joint Resolution 252, making an additional appropriation for the maintenance of the Senate Office Building, CONGRESSIONAL RECORD, page 3875. The Senate had made expenditures in advance of appropriations. But I quote from the RECORD with comments. All Members present on the floor at that time, when they read that part of the colloquy found in the first column will realize that it has been abbreviated and some "Garnerese" language deleted:

Mr. GARNER. We could say no, but you have not the courage to do it. That is all. [Laughter.]

Mr. WOOD. The opportunity is now open; let us see you perform.

Mr. GARNER. I will vote against the appropriations.

Mr. SNELL. This is a unanimous-consent proposition, and all the gentleman has to do is to object.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none. [Laughter.]

Some voices rallied the gentleman from Texas to object. He did not. That was retreating under fire.

The yen of the gentleman from Texas for information on the refunds is appealing and the way he neglects to satisfy it is appalling. At the other end of Pennsylvania Avenue in the Treasury Building are two rooms filled with the records, documents, books, and so forth, relating to the refunds in this case. Since December, 1928, and before, the doors of these rooms have been yawning open to the gentleman from Texas and he has been yawning back at them.

If the disquiet the gentleman from Texas seems to feel about these refunds is not a political distress, why, in a period of 390 days, exclusive of Sundays and holidays, did he not give the contents of those rooms the privilege of his acquaintance. Had he done so, would he take the position he now takes? I think not. I believe the gentleman in his wild Texan heart really believes the Treasury "has done a good job."

There is a period of 30 days after a proposed refund is reported by the Treasury to the joint committee before such refund can be paid. Upon the receipt of the proposed refund for 1917, the expert staff of the joint committee examined the returns, conferred with the Treasury on all matters of policy and procedure, and reported in writing; a copy of this report of the staff was delivered to each member of the joint committee several days in advance of the date set for the hearing. It set out quite fully all the questions involved. At the hearing the members examined the Treasury officials and the staff of the committee and decided not to disturb the settlement as proposed by the Treasury.

In the matter of the proposed refunds for 1918, 1919, and 1920, the same procedure was followed. The report of our staff was delivered to the members on March 5. The hearing was set for March 11, six days later. The conclusion was not to disturb the proposed settlement.

I gave the proposals for 1917 and those for 1918, 1919, and 1920 considerable attention. Questions of serious import were involved, including amortization allowances, invested capital, consolidated returns, and other issues under our excess or war profits tax laws. I believe the decision reached by the Treasury satisfactory and favorable to the Government.

The Treasury is applying the same rules to all taxpayers, large and small, that equal consideration may be given to all taxpayers, irrespective of the amounts involved.

The United States Steel Corporation is, I understand, our largest single taxpayer, paying, as I recall, about 8 per cent of the income taxes collected for the years named. This, however, entitles it to no special or favorable consideration, nor does it justify discrimination against it.

If the gentleman from Texas is insinuating that sinister practices are involved in the refund under discussion, let me make this observation:

So many persons participate in the determination of a case like this that to make a corrupt decision would require a conspiracy of a considerable number. No sane man believes such a conspiracy could exist, even without considering the high character and integrity of the personnel which handles these matters. If improper practices prevailed in the department somebody would be benefiting to such an extent that it would become evident, and it would not be necessary for anyone to go about with nose in the air testing for a taint; such a conspiracy would smell to heaven.

The honesty, efficiency, and public service of the Treasury has caused public approval of and confidence in that department. Yet political necessity thinks an advantage can be attained by attacking it. I do not believe there is anything in the work of the Treasury on these refunds that warrants the criticisms made, but they are based upon political partisanship. When did the public lose confidence in the Treasury? Every election following an attack by Mr. GARNER on the Secretary of the Treasury has resulted in an increased Republican majority in the House. The minority leader, in his naïve manner, merely emphasizes the extraordinary good fortune of the public in having a man of Mr. Mellon's outstanding ability and integrity, in charge of its finances.

During the recent hearing by the joint committee the gentleman from Texas occupied a good deal of the time in asking questions and expressing his opinions, as was his right. At the conclusion the chairman asked whether any member desired to further question the Treasury representatives or the staff. The gentleman from Texas indicated that he did not, nor did he then ask that further information be supplied or that the hearing be continued. Two more days were available for inquiry. If the thirst for information was so imperative, why not drink when at the spring? When has Mr. GARNER asked the Treasury for additional information since the settlement of the 1917 refunds? When did he ask that the joint committee make an investigation other than that made by the staff of the proposed refunds for 1918, 1919, and 1920, of which he was advised in December, 1928? What other cases are there about which he has asked for information?

The question of appeals to the courts was raised. If an appeal were to be taken, it is estimated that it would be five years before final decision could be obtained. The courts give the taxpayers the advantage in disputed questions. Undoubtedly the decision of the courts would be honestly made, but in my judgment no more honestly than those now made by the bureau.

If complaint is now made of the amounts of refunds proposed by the Treasury, would it not follow that the courts would be more severely complained of for awards larger than the refunds? The gentleman from Texas [Mr. GARNER] never moved in the joint committee that the matter be referred to the

courts nor made any other motion that had for its purpose to set aside a proposed settlement. That was the forum which offers a proper opportunity to present such motions.

If the United States Steel case were taken to the Supreme Court, the decision would not give valuable precedents for use in the future. The issues involved in the case arise entirely under the profits tax law, repealed in 1921. There are but very few other cases still pending in the Treasury for years affected. It is of much greater importance, in my opinion, that the cases for the war years be disposed of finally, upon a basis fair to both the Government and the taxpayers, and be put permanently behind us.

The statement that the joint committee can meet only when the chairman so desires is not correct. If at any time a member desires the committee to meet for the consideration of a matter within its jurisdiction, a meeting can be called. I have never denied such a request. Has the gentleman from Texas ever made such a request? The members of the joint committee have access to the records and the staff, and it is to be presumed that they discharge the duties of their membership.

The staff of the joint committee, on their own motion or at the suggestion of the chairman, continually makes inquiry as to Treasury methods and suggestions of changes. If members of the committee wish others made, they have only to indicate them.

We now come to the more general subject of the administration of the refund provision of the revenue laws. The gentleman from Texas has indicated that he believes the joint committee's action is a purely formal matter. Does the gentleman from Texas believe that the staff of our joint committee is incompetent or inattentive to its duties? Is he unaware of the work that is done?

The joint committee was created in 1926. We have had and still have as the chief of our staff of experts Mr. L. H. Parker. Mr. Parker, you may remember, had general charge of the investigation by the select Senate committee, known as the Couzens committee, in 1924. It is my opinion, and I think that everyone shares this opinion with me, that Mr. Parker is a most capable, diligent, and impartial investigator. It is my knowledge that he gave detailed investigation to the refunds in question.

It is my opinion that Mr. Parker must be credited with a very substantial part in the improvement of the administration of our tax laws. His accomplishments have not been accompanied by newspaper headlines or political debate. Nevertheless, they have been none the less substantial. The examination of refunds submitted to the committee is neither a formal nor a perfunctory one. Each case is examined. Investigations frequently are made in the bureau. Requests for additional information are submitted. I can say, unhesitatingly, that no refund has been paid until all questions raised by the staff of the committee have been settled satisfactorily. Let me read Mr. Parker's report on the administration of the refund provisions for 1929:

GENERAL SURVEY OF OVERASSESSMENTS

The total refunds shown in detail in Part I amount to $38,203,521.84; the total credits amount to $15,969,125.14; and the total abatements in connection with the same cases amount to $8,613,275.33. The total net overassessments reported to the committee during the calendar year 1929, which were subsequently paid, credited, or abated, amounted to the sum of the above three items, or to $62,785,922.51. On these overassessments the sum of $12,886,965.66 was allowed in interest, making a grand total of overassessments and interest of $75,672,888.17.

In addition to the above, there was reported to the committee three overassessments, totaling $1,304,438.91, which have not been paid. The refund in one of these cases was withheld on the initiative of the commissioner on account of a proposed deficiency. The second case is being recomputed, and the third case is being reviewed, after conferences between the department and this office.

It is interesting to note in regard to the overassessments reported during the calendar year 1929, and paid after the expiration of the 30-day period prescribed by law, that there has been a marked decrease in the rate at which these overassessments have been allowed in comparison with the rate shown by our former reports. For the 7-month period—June 1, 1928, to December 31, 1928—the rate at which overassessments were made with interest was $15,224,270 per month. During the calendar year 1929 this rate was only $6,306,074 per month, which represents a decrease of over 58 per cent in the rate of overassessment. For the 21-month period—March 1, 1927, to April 24, 1928, and June 1, 1928, to December 31, 1928—the rate of overassessment, with interest, was $10,676,188 per month, and the present rate is 41 per cent less than this rate.

In view of the above, it seems reasonable to hope that the peak of the high-refund years has been passed. However, it appears important to consider two questions: First, what are the reasons for the decrease in refunds and, second, what are the principal causes for the refunds.

In regard to the first question, it has been computed that for the calendar year 1929, 71 per cent of the adjustments were for the excess-profits tax years up to and including 1921, and that the remaining 29 per cent were for years subsequent to 1921. In the case of the preceding 21-month period, 83 per cent of the overassessments were for the excess-profits tax years, and only 17 per cent for subsequent years. It is believed, therefore, that the decrease in the rate of overassessment is largely due to the fact that the bureau has closed out a large proportion of the excess-profits returns. It is evident that the refunds will be much lower when all the excess-profits tax controversies are settled.

It may also be properly noted that the average interest charge dropped to 20.53 per cent in 1929 from an average interest charge of 26.72 per cent in the preceding 7-month period, so that a considerable saving in interest may also be expected for the future.

As to the causes for the refunds, this has already been shown by the classification in Part I, but it appears important to discuss these causes in some detail.

In the first place, if reference be made to the classification of overassessments shown on page 30, it will be observed that the most important single cause of the 1929 refunds is the new interpretation placed on the life-insurance provisions of the 1921 and subsequent acts by the decision of the Supreme Court of the United States in the case of the National Life Insurance Co. Nearly 12 per cent of all the overassessments result from this cause. It is not necessary to go into this matter further here, for this office has already submitted to the committee a preliminary report on Federal Taxation of Life Insurance Companies, which covers this subject at length.

The second major single cause of this year's refunds is the expiration of the statute of limitations. Some changes were made in this provision, or rather in the provisions providing for these limitations in the revenue act of 1928. It is believed that our principal troubles were due to the defects in the former acts, and that the present act will prove satisfactory. However, the operation of the new provisions will be carefully observed.

The third important cause of the refunds described in this report is depreciation. The determination of depreciation, while it is a fact question, is obviously primarily a matter of judgment. It is the cause, and undoubtedly will continue to be the cause, of considerable controversy between the Government and taxpayer, unless some arbitrary rule is devised which will be satisfactory. It is not impossible with low tax rates that some solution of the present difficulties may be found. It is the opinion of this office that with the experience that our taxpayers have had with this subject, the department should discourage changes in the depreciation rates shown on current returns.

It would appear that the judgment of the taxpayer, at the time of making the return on the question of depreciation would be better than his judgment four or five years after, when he is making application for a refund. There is also another matter which is very unsatisfactory in connection with the present method of depreciation. Depreciation is allowed on cost, or on March 1, 1913, value, at a certain definite rate. In many cases, however, the plant account becomes simply a sum of money, and depreciation reserves simply a sum of money, and the taxpayer keeps no adequate record of his plant in use. When this is true the taxpayer, instead of reducing his plant account when certain items of equipment are discarded, keeps on depreciating his equipment with the result that in place of getting 100 per cent depreciation, he may get 200 per cent. It is the opinion of this office that a complete report on depreciation will be desirable.

It will be observed from the classification of overassessments shown on page 30 that in addition to depreciation other deductions which are determined by the exercise of judgment are also troublesome. These deductions are amortization, depreciation, inventory adjustment, and losses on sales of capital assets. Other allied subjects requiring the exercise of judgment are valuations for estate-tax purposes, March 1, 1913, valuations, and valuations on account of sale of capital assets. Attention is drawn to the fact that a report on depletion has already been made by the staff and is now before the committee.

Our former reports in connection with refunds and credits criticized the application of the special assessment provisions in a number of cases. At the time of making these other reports special assessment was a major cause of the large refunds made. This situation is no longer true, special assessment having dropped from first place to eighth place in order of importance.

CONCLUSION

It must be concluded that the overassessments reported to the committee during the calendar year 1929, and paid after the 30-day period prescribed by law, represent accurate and careful determinations of final-tax liability.

The staff received from Hon. Robert H. Lucas, Commissioner of Internal Revenue, and from Mr. E. C. Alvord, Special Assistant to the Secretary of the Treasury, very satisfactory cooperation in connection

with its examination of the overassessments. All issues raised have received careful consideration and full and open discussion.

Respectfully submitted.

L. H. PARKER, *Chief of Staff.*

An objection raised by the gentleman from Texas is that no consideration is given tax refunds by the committee unless Mr. Parker sees fit to recommend such consideration. I am surprised at having to answer such a complaint. On January 5, 1929, I stated in this House the procedure of the joint committee in regard to refunds. I set forth that the procedure had been established by Hon. William R. Green, the former chairman of the committee, which procedure was approved by the committee, and appears to be working satisfactorily.

I inserted in the RECORD a letter from Mr. Parker covering the details of the refund procedure in full—page 1207, CONGRESSIONAL RECORD, January 5, 1929. I have not had complaint from the members of the committee prior to the statement by the gentleman from Texas on Friday. It is true that on March 12 last the gentleman requested to be currently advised as to proposed refunds, with which request I immediately complied. The members of the joint committee have access to the staff and files at all times.

Another comment of the gentleman from Texas is in connection with the refund to the Baldwin Locomotive Works for the years 1912 to 1922. He seems to think the statute of limitations has run on the early years at least. If he will look at section 252 of the revenue act of 1921, he will find that Congress has specifically made this statute of limitations ineffective under certain circumstances. This section provides as follows:

Provided further, That if upon examination of any return of income made pursuant to the revenue act of 1917, the revenue act of 1918, or this act, the invested capital of a taxpayer is decreased by the commissioner, and such decrease is due to the fact that the taxpayer failed to take adequate deductions in previous years, with the result that an amount of income tax in excess of that properly due was paid in any previous year or years, then, notwithstanding any other provision of law and regardless of the expiration of such 5-year period, the amount of such excess shall, without the filing of any claim therefor, be credited or refunded as provided in this section.

How can the action taken by the commissioner in conformity with this law laid down by Congress be criticized? The statute of limitations is expressly waived in this type of case by the revenue acts. A provision similar to the one quoted above appears in both the 1924 and 1926 revenue acts.

Also, the gentleman from Texas is worried about the large number of refunds to the State of Pennsylvania. In this connection, I would draw his attention to the fact that based on 1927 statistics Pennsylvania pays 10 per cent of the corporate tax, New York and Pennsylvania together 40 per cent of the corporate tax, and Texas only 1½ per cent of this tax. It certainly would be surprising if New York and Pennsylvania did not receive more refunds than Texas. In passing, I would observe that the United States Steel Corporation returns its tax from New York.

The minority leader mentions the refund to the American Window Glass Co. as being suspicious. I can not go into all the details of this case here, but I can state one fact in regard to this case, which is important, for it is typical of many refunds which look large on their face, but which really are bookkeeping adjustments. In this case, the American Window Glass Co. filed a consolidated return showing a tax of some $2,900,000. One of the companies in the consolidated group was the American Window Glass Machine Co. The bureau refused to allow this latter company to be affiliated with the group as only 76 per cent of its stock was owned by the parent company. What happens? It is necessary to refund to the American Window Glass Co. $2,131,000 because of the exclusion from the consolidated return of the income of the machine company, but at the same time the bureau assesses deficiencies against this American Window Glass Machine Co. of $1,717,000, so that there is a net tax adjustment in this case of $414,000 instead of over $2,000,000 as it would first appear.

That is, when the consolidated group reports its total income, it is larger; it gets into the higher brackets. But when this consolidated report was rejected and separate reports were made the corporations paid in the lower brackets.

On Tuesday, the gentleman from Texas, in popular terms, described to the House a proposed refund to Mr. John D. Rockefeller of 7,000,000 buffalo nickels for the year 1917. I would like to advise the gentleman, using his own terminology, that even after the refund Mr. Rockefeller will pay a final tax for the same year, 1917, of 276,000,000 buffalo nickels. Therefore the tax adjustment is less than 2½ per cent. The merits of the case have not yet been investigated by the staff.

The gentleman from Texas refers to a refund of $4,320,000 to the Middle States Oil Corporation. Now, strictly speaking, a very small part of this is a refund. Practically $4,000,000 is an abatement. That is, it is the cancellation of a jeopardy assessment which was never paid. This case, however, has been a difficult case for both the bureau and our staff. As a matter of fact, a part of the books of the company were destroyed or taken to Europe. What books remained showed fictitious income for the purpose of deceiving stockholders. The company is now in the hands of receivers.

The minority leader thinks the Speaker ought to appoint a committee to investigate the Treasury. It appears that the gentleman wants to get a look at the "books," so I have a suggestion to make which may obviate the necessity for the committee he suggests. The Joint Committee on Taxation has the right to look at the "books" now, and my friend from Texas is a member of that committee; therefore I invite him to go to the Treasury where, with the assistance of our staff, if he so desires, he can look at the "books," see how the business is conducted, see what the Treasury does and what our staff does.

Mr. GARNER, as a member of the joint committee, has the right, as does the Secretary of the Treasury, to examine the contents of those rooms. Why, in General Sherman's definition of Texas and war, has he not done so?

The examination of refunds is only a part of the work of the staff. Very important are the constructive reports prepared by the staff which allow recommendations to be made on legislative subjects in the light of the actual operation and effect of the provisions of the revenue acts. Three important reports are now awaiting the consideration of the committee, one on capital gains and losses, one on insurance companies, and one on depletion. I shall call the committee to consider these and other important matters as soon as the tariff bill is disposed of.

Now, to conclude in regard to the United States Steel Corporation. This company paid an original tax of $304,000,000 for the three years 1918, 1919, and 1920. The final tax liability is placed at $312,000,000. So that the Government gets $8,000,000 more tax from the result of the audit of this case. The entire refund of principal of $21,000,000 is due to erroneous additional assessments. Nearly 40 per cent of the net income of this group of 195 corporations went to the Government in taxes during this 3-year period. In 1918 it paid nearly 60 per cent of its income to the Government in tax.

Moreover, in 1918 the Steel Corporation paid nearly 8 per cent of the total tax paid by all corporations in the United States. I feel no apprehension as to the refund in this case, for it only represents at most a 7 per cent adjustment from the highest figure assessed. In the case of some corporations, for instance, the North & South Oil Co., of Luling, Tex., we find the tax reduction has been 88 per cent, so that it seems to me that the Steel case is getting criticism simply on account of its size without regard to the merits of the case.

In my judgment, the joint committee should determine refund cases on the basis of the facts in each case. We are charged with the performance of an important financial work, entirely disassociated from politics. The payment of a tax has no political import and a refund should be regarded in the same way. The payment of taxes is a serious business to the taxpayers. They are entitled to have every phase of their cases considered on a business basis, and have taken from them in the final settlement only that amount which is justly due from them. [Applause.]

A statement of the material issues involved in the proposed settlement for the years 1918, 1919, and 1920 is contained in the following communication from the Treasury Department to the Senate Committee on Appropriations:

TREASURY DEPARTMENT,
Washington, March 4, 1930.

MY DEAR MR. CHAIRMAN: In response to the request of Senator McKELLAR, at a meeting of the Subcommittee of the Senate Committee on Appropriations considering the Treasury appropriation bill, on March 1, 1930, I am submitting below a résumé of the adjustments made by the Internal Revenue Bureau, in the case of the United States Steel Corporation and subsidiaries, resulting in the overassessments of income and profits taxes for the years 1918, 1919, and 1920. Before discussing the present overassessments, it is believed appropriate to refer briefly to the bureau's procedure with the audit of these years and of 1917, with particular reference to the additional assessments made and overassessments heretofore allowed. It is believed that this can be best done by quoting from the outline memorandum (covering the year 1917) submitted to the Joint Committee on Internal Revenue Taxation as follows:

"(2) Taxes paid for 1917: The tax on the original return was $199,850,857.46, filed April 16, 1918.

"Subsequently, following a so-called 'superficial audit,' an amended return was filed September 29, 1919, showing $7,190,165.71 additional, which was paid. This was less than the amount shown by the superficial audit, the difference being abated.

"Following a change in article 170 of regulations 33 there was assessed and paid an additional $6,369,497.75 on December 3, 1920.

"The first comprehensive bureau audit (by Forster) indicated a still further tax of $9,426,115.14. The taxpayer conceded a payment of $4,000,000, and this was assessed and paid August 29, 1921, pending further audit.

"These additional payments were made by the company in accordance with its settled policy to pay amounts claimed without filing protests and holding conferences to determine correct tax and to file claims for refund after payment, trusting to department to reach correct adjustment ultimately and refund whatever was due. (We have had the use of this money for from seven to nine years.)

"Proposed refund: The proposed refund is for $15,756,595.72 tax and approximately $11,000,000 interest, or a total of something over $26,000,000.

"The company to protect its rights began proceedings last July in the Court of Claims and claimed a total refund of $101,000,000 tax and approximately $60,000,000 interest, to which would be added interest of 6 per cent up to the date of final judgment by a court of last resort.

"Subsequent audit work in the bureau indicated overassessments of approximately $28,000,000, and this amount, with interest making a total of approximately $31,000,000, was credited against deficiencies then being claimed for subsequent years instead of being refunded. This credit will be worked out and adjusted when the taxes for those years are finally made.

"The proposed refund is based on exhaustive consideration of the entire case by a special committee of three of the most able and experienced men in the bureau working in conjunction with auditors who have devoted literally years of time to the case. Their unanimous recommendation of this refund has received the approval of the general counsel and the commissioner after careful examination.

"Final letter to taxpayer on 1917 alone embraces 2,400 closely typewritten pages.

"The files relating to the case comprise probably several hundred thousand pages and no one could comprehend all of the details involved without devoting at least a year to its study.

"While the entire overassessment (including the refund now proposed and the credits heretofore made) is large in amount, proportionately it represents only 13 per cent of tax shown on original return. If on a tax of $100,000 a refund of $13,000 were made it would pass unnoticed and would be so small that this committee would not be interested."

Year 1918

Taxes paid, original return		$245, 531, 180. 44
Additional payments:		
1921	$32, 702. 11	
Aug. 29, 1921	3, 500, 000. 00	
Oct. 10, 1921	2, 250, 000. 00	
June 22, 1926	23, 686, 394. 60	
Mar. 31, 1927	8, 417. 21	
Total additional payments		29, 477, 513. 92
Total payments		275, 038, 694. 36
Prior overassessment certificates:		
Feb. 13, 1928		1, 512, 719. 60
Mar. 10, 1928		7, 864, 171. 82
		9, 376, 891. 42
Proposed refund:		
Principal		14, 369, 612. 45
Total overassessments		23, 746, 503. 87
Interest (approximate)		8, 400, 000. 00
Net additional tax		5, 731, 010. 05
Taxpayer's claim in court:		
Principal		51, 557, 472. 10
Interest (approximate)		31, 000, 000. 00

In February, 1921, the taxpayer made voluntary payment of $32,702.11 due to announced bureau policy (T. D. 3215 modifying T. D. 3105) of disallowing so-called donations to war activities, like the Red Cross, etc.

The taxpayer conceded the proposed additional taxes to the extent of $3,500,000 which it paid on August 29, 1921, and $2,250,000 paid on October 10, 1921. At the time these payments were made it was known that the investigation of the case was incomplete, but there being some indication of an additional tax the payments were made under the expectation that the matter would be subsequently readjusted. In this connection the taxpayer, through the early stages of the matter, followed the policy of encouraging the bureau to reach its conclusion in the case in order that disputed points could be taken up later and adjusted.

During the pendency of numerous issues involving the amortization claim which was under consideration in 1924 and 1925, an additional field examination was made late in 1925, and the determination of the amortization allowance was made the basis of further detailed investigation. Also, in the meantime a ruling was made in S. M. 1530, III-1 C. B. 307, with reference to the treatment of intercompany profits in opening 1918 inventories, subject to the normal tax of 12 per cent. The audit was revised in June, 1926, and set up an additional tax of $23,686,394.60, which was assessed and satisfied mainly by credits from 1917 overpayments above mentioned. The balance of $1,054,474.21 was paid on August 20, 1926.

The additional assessment of $8,417.21 was made in December, 1926, due to correction of minor errors in the preceding audit.

In February, 1928, after further consideration of the amortization claim and the invested capital, an overassessment of $1,512,719.60 was allowed and credited against additional tax for 1920.

Shortly afterward, through an increase in the amortization allowance, a further overassessment was allowed of $7,864,171.82 and credited against the original tax assessment for 1927 on March 15, 1928.

From the foregoing description of the various audit adjustments, it will be readily seen that at no time did either the taxpayer or the Government consider any audit for 1918 made to be final, but the present settlement for this year, 1919 and 1920, is agreed by both parties to be final. The taxpayer has consented to dismiss its suits pending in the Court of Claims and to file closing agreements under section 606 of the revenue act of 1928.

With the foregoing summary of the adjustments heretofore made, attention will be given to the salient features connected with the pending settlement for 1918.

IN RE UNITED STATES STEEL CORPORATION AND SUBSIDIARIES

BOND PREMIUM IN INCOME

The petition to the Court of Claims and the taxpayer's brief objected to the bureau's action in including in gross income of six railroad subsidiaries and of the Union Steel Co. proportionate parts of so-called premiums, being the excess over par values, received on bonds issued by such corporations prior to 1918, upon the ground that no income therefrom was attributable to 1918. The taxpayer relied upon the decisions rendered in the cases of Old Colony Railroad Co. (6 B. T. A. 1025), not acquiesced in by commissioner but affirmed by the circuit court of appeals (26 Fed. (2d) 408), certiorari to United States Supreme Court being granted but the case later dismissed on request of the Government; and Chicago, Rock Island & Pacific Railway Co. (13 B. T. A. 988).

With respect to this issue, article 544 (a) (2) of regulations 45 provided that if bonds be issued at a premium, the net amount of such premium is gain or income that should be prorated or amortized over the life of the bonds. This attitude has been preserved in later regulations, Nos. 62, 65, 69, and 74. The position of the bureau is premised upon the hypothesis that the premium received is of the same nature as the discount sustained upon the issuing of bonds, below par, and is a properly recognized element of cost of obtaining the loan, which should be so spread over the life of the loan that each year benefiting from the loan shall bear its proportionate part of the cost of obtaining that benefit. (Cf. G. C. M. 3832, VII-1 C. B. 123). It is obvious that if two corporations, of equal solvency, issue bonds, those bearing an interest rate above current market rates will produce a premium while those bearing a rate lower than market will require their issuance at a discount, so that the buyers of the two classes of bonds may realize the same net return on their investment. This treatment by the bureau of bond premium is in accordance with the practice prescribed by the Interstate Commerce Commission since 1914.

In the board's decision in the Old Colony Railroad Co. case, supra, reliance was had upon the cases of Baldwin Locomotive Works *v.* McCoach (221 Fed. 59), Chicago & Alton Railroad *v.* United States (53 Ct. Cls. 41), Corn Exchange Bank (6 B. T. A. 158), and New York Life Insurance Co. *v.* Edwards (271 U. S. 109). The decisions in the first two cases involved returns of income under the 1909 act, which recognized only cash receipts and disbursements, as distinguished from accruals, whereas the bureau's present position is based on the accrual system of accounting, recognized by statute and in the decisions of United States *v.* Anderson and Yale & Towne Manufacturing Co. (269 U. S. 422), American National Co., etc., *v.* United States (274 U. S. 99), and Galatoire Bros. *v.* Lines (C. C. A., 23 Fed. (2d) 676). The last two decisions cited by the board, above mentioned, did not involve the taxability of the obligor but of the bond investor. The board, however, recognized a taxpayer's right to spread bond discount over the life of the loan, in the case of Chicago, Rock Island & Pacific Railway Co., supra, at the same time drawing a distinction between taxable income, under the constitutional amendment, and statutory deductions from gross income. On November 19, 1929, the board adhered to its former position that bond premium is not income in the year 1921 when actually received prior to that year, in the case of the Old Colony Railroad Co. (18 B. T. A. 267), on authority of the decision in the earlier case by the circuit court of appeals, supra. The taxpayer has yielded on the issue herein in order to effect a settlement without litigation, although, as above indicated, the decisions to date are quite favorable to the taxpayer.

UNRELEASED PREMIUM ON BONDS PURCHASED

There is an issue closely related to the above matter, namely, in the case of the Duluth, Missabe & Northern Railway Co., which had issued bonds at a premium in years prior to 1918 and during the latter year bought in some of these bonds for more than par value. Upon this purchase the bureau computed a gain described as "unreleased premium," representing the balance of premium attributable to the period from 1918 to maturity, after spreading the rest of the premium over years prior to 1918. The taxpayer's position that such "unreleased premium" is not taxable income in 1918 is based upon the same grounds as in the preceding issue, and the company cites also the cases of Bowers v. Kerbaugh-Empire Co. (271 U. S. 170), and the Independent Brewing Co. (4 B. T. A. 870). The Supreme Court decision just mentioned did not involve bond premium or discount, and the dissenting opinion by a member of the board, in the case of National Sugar Manufacturing Co. (7 B. T. A. 577), not acquiesced in, attempts to distinguish between the facts in that case and the simple situation of diminution of liability in a going business, such as results from the purchase by a corporation of its own bonds at a price less than the amount received for them when issued. The commissioner declined to acquiesce in the board's decision in the Independent Brewing Co. case, to the effect that where a corporation purchases its own bonds at a price less than the issuing price it realizes no taxable income from such purchase. The case of that corporation on this issue is now pending in the United States District Court for the Western District of Pennsylvania.

In the case of Meyer Jewelry Co. (3 B. T. A. 1319) the board held that the forgiveness by creditors of indebtedness of a corporation was not income. The commissioner did not acquiesce in that decision. Some of the cases in which the commissioner has declined to acquiesce in the board's position, that taxable income is not realized when bonds are bought back at less than issuing price, are as follows: New Orleans, Texas & Mexico Railway Co. (6 B. T. A. 436); Houston Belt & Terminal Co. (6 B. T. A. 1364); Indianapolis Street Railway Co. (7 B. T. A. 397); National Sugar Manufacturing Co., supra; Petaluma & Santa Rosa Railroad Co. (11 B. T. A. 541), although the commissioner did acquiesce in the holding that no taxable income accrued on a purchase by a corporation of its own bonds below par, to be held as an investment; and General Manifold & Printing Co. (12 B. T. A. 436). See also Douglas County Light & Water Co. (14 B. T. A. 1052) and Eastern Steamship Lines (Inc.) (17 B. T. A. 787). To effect a settlement of the entire case, the taxpayer herein has consented to waive its contentions on this point.

PENSION TO FORMER PRESIDENT EDGAR ZINC CO.

A claim has been made to a deduction from gross income of the Edgar Zinc Co., an affiliated member of the group, of an amount representing a pension to a former president of that corporation. This payment was made to the former employee pursuant to a resolution by the directors on November 2, 1915. The deduction has been allowed, on authority of article 108, regulations 45, and the board's decision in the case of C. Wildermann Co. (8 B. T. A. 771) acquiesced in.

NET LOSSES, VARIOUS SUBSIDIARY COMPANIES

A claim has been asserted by the taxpayer that net losses of 17 members of the affiliated group, sustained in 1919, should be deducted from the net incomes of the same members earned in 1918 instead of such losses being absorbed by the net income in 1919 of other members of the group. This claim is contrary to the long-established practice of the department, and appears to rely upon the so-called "legal theory" of consolidated returns, as distinguished from the so-called "accountant's theory" or "economic unit" theory of consolidation. See the board's discussion of these two theories in the case of Gould Coupler Co. (5 B. T. A. 499), which held, inter alia, that the operating losses of one member of a consolidated group should be deducted from the net income of the other members of the group, meaning for the same taxable period. Article 637, regulations 45 (so also in the later regulations 62, 65, 69, 74), prescribed that in cases of consolidated returns the consolidated taxable net income, for a particular period, should be the "combined net income of the several corporations consolidated." Under this view of consolidated returns the identity of each corporation in the group becomes merged or "fused" with the other members of the group, although the entities are expressly preserved for certain purposes, such as allocating the resultant total tax liability among the members of the group.

In the present case the taxpayer would have the bureau recognize the identity of each member, so that a net loss of one affiliated corporation in 1919 would be applied, under section 204 of the revenue act of 1918, against that particular corporation's net income for 1918. Reliance was had by the taxpayer upon the board's decisions in the cases of Butler's Warehouses (Inc.) (1 B. T. A. 851); Cincinnati Mining Co. (8 B. T. A. 79), acquiesced in; Alabama By-Products Corporation (16 B. T. A. 1073); and National Slag Co. (16 B. T. A. 1310); also upon bureau rulings I. T. 1728, II-2 C. B. 245, and O. D. 683, 3 C. B. 311.

The last two rulings were cited to the effect that in a consolidation each member of the group preserves its identity, but in both of those cases corporate identity was recognized only in respect to the filing of refund or credit claims, without reference to computation of the consolidation tax. The Butler's Warehouses (Inc.) decision did not involve any consolidated return, but held that under section 204 of the 1918 act a net loss sustained by a corporation organized January 17, 1919, during the balance of that year could not be applied against that corporation's net income for 1920, because Congress was granting relief to corporations in existence in 1918 and subject to the high rates of tax prevailing in that year. In the Cincinnati Mining Co. case the method of computation of a consolidation tax was not involved, but the board held the corporate entities should be recognized in the matter of allocating the total tax among the members of the group. This case had nothing to do with application of a net loss, but merely held that no tax should be allocated to a member having no net income.

The board held, in the Alabama By-Products Corporation case, supra, that a corporation having a net loss in 1919, when unaffiliated, was entitled to apply enough of that loss to 1918 to absorb its own net income for 1918 and to apply the balance against its own net income only for 1920, when it became affiliated, and none against the net income of other members of the group of 1920. The commissioner's attitude as to acquiescence in that decision has not yet been announced. The decision in that case was cited by the board with approval in the case of National Slag Co., which was decided in favor of the commissioner. In the latter case one corporation, formed January 1, 1924, had a net income in 1924 and was affiliated with a corporation that sustained losses in 1922, 1923, and 1924. The board held that the commissioner correctly refused to allow a "pyramiding" of the affiliated corporation's losses of 1922 and 1923 with its loss in 1924, but held that the loss in 1924 was properly applied against the first corporation's net income in 1924, without any suggestion that the loss of 1924 be applied against that corporation's net income for 1925, if any.

In the case of Hutt Contracting Co. et al. (17 B. T. A. 818) the board held that where a corporation sustained a net loss for 1921 and 1922, and was a member of an affiliated group in 1922, the net loss for 1921 was inapplicable to reduce the consolidated net income for 1922. That each corporation is a taxable entity, in the first instance, has been recently reiterated by the board in its decision in the case of Apartment Corporation (17 B. T. A. 876), citing the Alabama By-Products Corporation decision as authority for its position. There again the issue was not as to the fundamental basis of consolidation.

In the case of Sweets Co. of America (Inc.) (12 B. T. A. 1285), now before the circuit court of appeals, the facts here relevant may be epitomized thus: Corporations A and B were consolidated during the first half of 1919, when A had a net income largely in excess of B's net loss. During the next four months A, B, and C were affiliated, and A had a net loss in excess of B's income, while C had neither profit nor loss. Corporation C absorbed A and B and existed alone during the last two months of the year 1919, when it had a net loss in excess of all net incomes for the year. The board held that since there were three taxable "units" during the year, C could not be recognized as the "same taxpayer" as A; that A's net losses during the 4-month period could not be applied against its own net income for the preceding 6-month period, otherwise "the unit conception of an affiliation would fall"; that as the losses within the group are deductible from the incomes within the group, all the members have the benefit of such deductions; that if A's loss during the 4-month period were deducted from its own net income for the preceding 6-month period there would result a double deduction, due to prior offsetting of such loss against B's net income for the 4-month period, which double deduction "is contrary to the purpose of the statute"; and that because an affiliated group is regarded by the board as a unit for the purpose of computing the tax, there is no basis for applying the consolidated loss of A, B, and C for the 4-month period against the consolidated net income of A and B for the first six months of that year, apparently on the ground that C's operations might affect the net loss of the group during such 4-month period, and C not be a member of the consolidated group having the net income to be offset by the net loss. (Cf. American Steel Co., 7 B. T. A. 641 (acquiesced in); Owensboro Conserve Co., 8 B. T. A. 615; Hancock Construction Co. et al., 11 B. T. A. 800 (acquiesced in); Brighton Corporation, 16 B. T. A. 945; and Struthers-Ziegler Cooperage Co., 18 B. T. A. 537.) The board's decision in the Sweets Co. of America (Inc.) case is the subject of adverse criticism in the Commerce Clearing House Illustrative Case Service, 1929, article 4033.

It is noted that the most recent decisions of the board since the Remington Rand (Inc.) decision (33 Fed. (2d) 77) are leaning more to the legal theory of affiliation. (See Riggs National Bank, 17 B. T. A. 615; Liberty National Co., 18 B. T. A. 510; and Insurance & Title Guarantee Co. v. Commissioner, Fed. (2d).)

Without indulging in further discussion here as to the fundamental basis of consolidation, for tax computation, as to whether any inconsistency exists between sections 204 and 240 of the revenue act of 1918, or as to the merits of the various board decisions above cited, it may be observed that for the purpose of settling the case the taxpayer has receded from its contention on this issue and consented to absorption of the 1919 net losses by the net incomes of the other members of the consolidated group in 1919.

LICENSES OF PATENTS—LORAIN STEEL CO.

On April 11, 1917, Charles F. Jacobs, as party of the first part, and the Lorain Steel Co., a subsidiary herein, as party of the second part, entered into an agreement which provided, in effect, that in consideration of the down payment the former would grant to the latter the sole and exclusive right and license, under certain patents and pending patent applications and the patents which might be issued under such applications, to practice the inventions covered by such patents and applications and to use in certain lines of business endeavor the processes and apparatus described thereunder for a term not to extend beyond May 1, 1919, and upon payment of a further sum an unrestricted and nonexclusive right and license covering the life of the patents, similar to the right and license first mentioned, and also rights and licenses corresponding to those first granted under any letters patent of the United States covering similar inventions "which may thereafter be owned or controlled by the said party of the first part." Further, in consideration of the payment of the said additional sum the first party agreed to submit to the second party "all improvements in apparatus and processes used in the electrical welding of rails of railroads and street railways made by the said party of the first part," the second party being given the right, if it so elected within four months after such submission, to prepare, file, and prosecute applications in the name of the first party for letters patent of the United States for such improvements. In addition, the second party was given the right in case of infringement of any of the said patents to bring action by its own attorneys in the name of the first party to restrain such infringement and "to recover damages, profits, penalties, and costs" and to retain such recoveries as its own.

The bureau in computing net income for 1917 and 1918 allowed no part of the first payment as a deduction from gross income, but proposed to capitalize same, together with the second payment, from the time the option to acquire a nonexclusive right and license was exercised, and then amortized the total payments over the remaining life of the patents.

The taxpayer contends that the down payment should be spread over the period from April 11, 1917, to May 1, 1919 (approximately 25 months), as expense and the proportionate part properly chargeable to 1918 allowed as a deduction for that year.

In the preamble to the agreement of April 11, 1917, it is stated in the first paragraph:

"The party of the second part is desirous of obtaining the sole and exclusive right and license under the aforesaid patents, etc. * * * and a nonexclusive license under the aforesaid patents, etc. * * *."

A reading of the agreement indicates quite clearly that two separate and distinct concessions were obtained thereunder by the second party: First, a sole and exclusive right and license under certain patents, pending patent applications, and patents thereafter issued pursuant to such applications, for a limited period within which to make tests of the practicability of the processes and devices covered by such patents and applications, for which right and license it made the first payment; second, a nonexclusive right and license similar to the first extending over the life of the patents, together with other rights, for which the taxpayer paid an additional sum. Such being the case, the bureau concluded that the first payment is properly to be allowed as expense, but prorated over the period from April 11, 1917, to May 1, 1919.

This same issue was considered by the bureau in the case of this taxpayer for 1917, and the recommendation outlined above is in accordance with the recommendation made for that year.

TRACK DONATIONS—ELGIN, JOLIET & EASTERN RAILWAY CO.

During 1918 this subsidiary received donations of track and grading costs which donations were included in taxable income. The item is accounted for under Interstate Commerce Commission practice as account 606, donations. Such donations have been held not to be taxable income, and therefore this amount should be excluded from income. (See cases of Liberty Light & Power Co., 4 B. T. A. 155 (acquiesced in); and Great Northern Railway Co., 8 B. T. A. 225 (acquiesced in, on this issue), citing Edwards *v.* Cuba Railroad Co., 268 U. S. 628.)

DONATIONS—NATIONAL TUBE CO. ET AL.

For the year 1918 certain donations and contributions were claimed by the petitioners as deductions from gross income and disallowed by the bureau. The petitioners' representatives now propose, as a measure toward obtaining a settlement of the case without prosecution before a court, to withdraw their claim for the allowance as deductions of all the donations and contributions in question with the exception of donation made to the Young Men's Christian Association at Lorain, Ohio.

The facts and circumstances under which said donation was made are identical with the facts and circumstances relative to a similar donation made for the year 1917, the deduction of which was allowed by the bureau for that year.

In an affidavit executed June 13, 1928, by P. L. Fisher, assistant comptroller of the United States Steel Corporation, in support of the deduction claimed for 1917 he avers:

"The attendance of the National Tube Co.'s employees and their dependents as compared with the nonmembers of the National Tube Co. during the year was as follows:

Employees and dependents	21,047
Others	1,983

"Or over 90 per cent employees and dependents.

"Through this branch of the Young Men's Christian Association the employees of the National Tube Co. enjoyed privileges and have the use of facilities that would have to be otherwise provided through the welfare activities of the company. The National Tube Co. is by far the largest industry in Lorain, Ohio, and it is because of the participation of its employees and their families in the activities of the Young Men's Christian Association and their use of its facilities that the branch is maintained. The building is located immediately at the works on ground part of which was donated for the purpose by the company."

Article 562 of department regulations 45 provides:

"Donations made by a corporation for purposes connected with the operation of its business, when limited to charitable institutions, hospitals, or educational institutions conducted for the benefit of its employees or their dependents, are a proper deduction as ordinary and necessary expenses."

In re appeal of Poinsett Mills (1 B. T. A. 6), acquiesced in, the Board of Tax Appeals held that a donation made to a church was deductible. In this case the church was located in the mill village owned by the taxpayer, which village was inhabited solely by employees of the company and their dependents, and the congregation of the church was composed almost entirely of such employees and dependents.

In re appeal of Lihue Plantation Co. (Ltd.) (2 B. T. A. 740), acquiesced in, the board allowed deduction of a contribution of $3,351 to a branch of the Young Men's Christian Association maintained within the taxpayer's plantation and on property owned by the taxpayer, which branch was operated exclusively for the benefit of the employees of this plantation. Also, in the case of Elm City Cotton Mills (5 B. T. A. 309), acquiesced in, contributions to an association doing welfare work among the taxpayer's employees were allowed as deductions.

As may be seen from the above decisions, so-called donations are deemed allowable as deductions where the contributor derives some direct benefit from the contribution or benefits accrue in a substantial measure to the contributor's employees and their dependents. From the facts recited in the affidavit of P. L. Fisher it appears clear that the National Tube Co. did derive direct benefits from the donation made in 1918 to the Young Men's Christian Association at Lorain, Ohio, inasmuch as it was relieved in a large measure of welfare work now deemed necessary to be conducted by large corporations in order to maintain efficient working forces, and many of its employees and their dependents received benefits and were permitted to use the facilities of the Young Men's Christian Association branch at Lorain, Ohio, free of charge. Such being the case the donation made to the Young Men's Christian Association at Lorain, Ohio, for the year 1918 has been allowed as a deduction, and all the other donations listed on the taxpayer's petition have been disallowed.

PROFITS FROM STATE LEASES—VARIOUS SUBSIDIARIES

The issue is common to the years 1919 and 1920 as well as 1917 and 1918. In the petition to the Court of Claims for 1918, and in the brief for that year, objection was raised to the bureau's action in including in consolidated net income a large sum described as the net income of six subsidiaries realized in 1918 from operation of iron-ore leases granted by the State of Minnesota or a political subdivision thereof. The objection, of course, is based upon the claim that the income is exempt from tax because arising not from a private business enterprise, but from employment by a state of instrumentalities in the performance of strictly governmental functions, i. e., obtaining revenues for the support of the State's public schools. Reliance is had by the taxpayer upon the following decisions:

Collector *v.* Day (11 Wall. 113), where the United States Supreme Court refused to sanction a tax imposed by the Federal Government upon the salary of a State executive officer.

Pollock *v.* Farmers Loan & Trust Co. (157 U. S. 429), where it was said that: "As the States can not tax the powers, the operations, or the property of the United States, nor the means which they employ to carry their powers into execution, so it has been held that the United States have no power under the Constitution to tax either the instrumentalities or the property of a State." On rehearing, the court said, inter alia, that "it follows that if the revenue derived from municipal bonds can not be taxed (by the United States), because the source can not be, the same rule applies to revenue from any other source not subject to the tax," etc.

Ambrosini *v.* United States (187 U. S. 1), where it was held that the Federal Government lacked power to impose a stamp tax on surety bonds given a State under requirement of one of its laws.

Indian Territory Illuminating Oil Co. *v.* Oklahoma (240 U. S. 522), where the State attempted to tax a lease on tax-exempt Osage Indian lands, but the court held the property leased to be under the protection of the Federal Government, and that the leases "have the immunity of

such protection." The tax assessment by the State was held invalid, saying, in part: "A tax upon the leases is a tax upon the power to make them, and could be used to destroy the power to make them. If they can not be taxed as entities they can not be taxed vicariously, * * *."

Gillespie v. Oklahoma (257 U. S. 501), where the court held invalid an attempt by Oklahoma to tax the net income of a lessee of tax-exempt Indian lands, saying: "The same considerations that invalidate a tax upon the leases invalidate a tax upon the profits of the leases, and, stopping short of theoretical possibilities, a tax upon such profits is a direct hamper upon the effort of the United States to make the best terms that it can for its wards."

Daugherty, tax collector, v. Thompson (9 S. W. 99), in which the Texas Supreme Court held that school lands, when leased to raise an available school fund, are exclusively devoted to the use and benefit of the public as though covered by schoolhouses, and a tax on such leased lands diminishes the rental value thereof.

In Metcalf & Eddy v. Mitchell (269 U. S. 514), which involved the Federal income tax for 1917, applied by the bureau to income paid a consulting engineer by a State, the court held that the fact of whether or not the tax constituted an interference by the Federal Government with the State governmental functions was one for determination under the facts of each case.

Frey v. Woodworth, collector (2 Fed. (2d) 725), where the rule was recognized and applied, to the effect that State instrumentalities used in the performance of governmental functions are exempt from taxation by the Federal Government. The case involved the Federal income tax for 1921 sought to be applied to wages of employees of a street railway owned by a municipality.

Panhandle Oil Co. v. Mississippi (277 U. S. 218), in which the court held unconstitutional a State sales tax on gasoline purchased by the Federal Coast Guard and veterans' hospital.

As opposed to the above decisions exempting from Federal taxation State agencies and the income or revenue therefrom, in the case of Coronado Oil & Gas Co. (14 B. T. A. 1214), acquiesced in. It was there held that income of a lessee of oil and gas bearing school lands of the State of Oklahoma from the sale of oil and gas produced from such leased lands was not exempt from the Federal income tax, upon the ground that the facts proven did not establish the taxpayer as an instrumentality of the State in its performance of a governmental function, so that a tax upon its income would constitute an interference with the exercise by the State of a governmental or sovereign power. Numerous relevant decisions by the courts were cited by the board. (See also H. Oliver Thompson, 17 B. T. A. 987, as to land leased to a city for a school site, and Bear Canon Coal Co., 14 B. T. A. 1240.)

The Coronado Oil & Gas Co. has prosecuted a petition to the circuit court of appeals for review of the board's decision upon the issue of its claimed exemption from Federal income tax on income from its State school-land leases. In the case of Bunn v. Willcutts (35 Fed. (2d) 29) the circuit court of appeals affirmed the district court decision (29 Fed. (2d) 132), in holding exempt from Federal tax the gain on sale of municipal bonds. Notwithstanding the possibility of a decision by the courts in sustaining the claimed exemption, the United States Steel Corporation has waived its claim to exemption. The disposition of this item accords with the action heretofore taken in disposing of the tax for the year 1917.

TAXES IN INVENTORY—OLIVER IRON MINING CO.

The Oliver Iron Mining Co., a subsidiary of the United States Steel Corporation, operated iron-ore mines in Minnesota and Michigan and paid to these States each year large amounts as taxes on its iron-ore properties. It has been the policy of the company for accounting purposes to charge these taxes on its books as a part of the cost of the ore produced in the year for which the taxes are payable. Since the company does not sell in a given year all of the ore it produces during that year, a part of each year's taxes has been included in the ore inventory on hand and unsold at the end of the year.

In determining the income to be reported on its tax return for any year the company deducts from income disclosed by the books the taxes included in the closing ore inventory and adds back to the book income the amount of taxes included in the opening ore inventory, these taxes having been deducted from income reported in the previous year's return by reason of a similar adjustment made in that year.

In the audit of the company's tax returns the bureau took the position that the taxes in question could, under the statute, be included in the inventories. Accordingly the adjustments made by the taxpayer with respect to these taxes were reversed and the taxable income held to be that shown by the books, so far as affected by this item.

Section 232 of the revenue act of 1918 provides that in the case of a corporation net income shall be computed on the same basis as is provided in subdivision (b) of section 212 or in section 226, which latter section relates only to cases where the taxpayer changed the basis of computing net income from a fiscal year to a calendar year, or vice versa.

Section 212 (b) provides that—

"The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the commissioner does clearly reflect the income, * * *."

The first provision by statute for use of inventories in the determination of income is found in section 203 of the revenue act of 1918, which states: "That whenever in the opinion of the commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the commissioner, with the approval of the Secretary, may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income."

In article 1581, regulations 45, issued under the revenue act of 1918, it is said that "in order to reflect the net income correctly, inventories at the beginning and ending of each year are necessary in every case in which the production, purchase, or sale of merchandise is an income-producing factor."

Under date of November 10, 1927, a representative of the office of the general counsel, assigned to the consolidated returns audit division of the unit, passed upon the question here involved in connection with the determination of the company's tax liability for the year 1920 and held that the taxes in question should be included in the cost of goods manufactured and the proper proportion of these taxes included in the inventory of ore on hand and unsold at the end of the year. This opinion cites the decision of the Supreme Court in United States against Anderson, supra, since the reasoning contained therein was considered applicable to the present issue. The court said in effect that while section 12 (a) of the revenue act of 1917 appeared to require the income-tax return to be made on the basis of the actual receipts and disbursements, said section must be read with section 13 (d), which provides in substance that a corporation keeping its books on a basis other than receipts and disbursements, may make its return on that basis, provided it is one which reflects income. In other words, the various sections of the act must be read together.

This same reasoning may be applied with equal force to the provisions of section 234 (a) (3) of the revenue act of 1918 which authorizes the deduction from gross income of taxes paid for the taxable year, and section 212 (b) of the same act which provides for a basis of returns which clearly reflects income. As the taxpayer's inclusion of taxes in the cost of goods sold is sanctioned by good accounting practice and its net income is clearly reflected by this action, the taxpayer's contentions with respect to this item have been denied. Whether a court would sustain the Government's position would seem to depend largely upon the extent to which the court would recognize the accounting principle involved. It is admitted that there is considerable merit to the taxpayer's contentions since the statutes specifically name taxes as a proper deduction from income for the year of the tax and since the taxes here in question are levied on ore properties and not on production or on inventories, except possibly to the extent that taxes are higher on productive than nonproductive properties. The taxpayer's contention finds support in such decisions as the Ottawa Park Realty Co. (5 B. T. A. 474), Westerfield v. Rafferty (4 Fed. (2d) 590), Fraser v. Commissioner (25 Fed. (2d) 653, affirming 6 B. T. A. 346), acquiesced in, and Central Real Estate Co. (17 B. T. A. 776), although these decisions are not regarded as conclusive.

In view of the position taken by the bureau with respect to this issue, the taxpayer's representatives, while not receding from the position taken, agreed, as a measure toward obtaining a settlement of the case without prosecution before a court, to withdraw their claim for the allowance of the taxes as a deduction under section 234 (a) (3) of the revenue act of 1918.

DEPRECIATION ON FURNITURE AND FIXTURES, ETC.—UNIVERSAL PORTLAND CEMENT CO.

In accordance with the practice followed by all of the subsidiary companies of the United States Steel Corporation the cost of furniture and fixtures was charged to expense as expenditures were made. The bureau in its audit of the Universal Portland Cement Co. for 1917 and 1918 disallowed the expenditures for furniture and fixtures made in those years, then capitalized the same, and allowed depreciation thereon. In its audit for the years 1919 and 1920 the bureau followed the same procedure. No adjustment was made in any of these years for furniture and fixtures charged to expense in years prior to 1917. The Universal Portland Cement Co. was the only subsidiary company of the United States Steel Corporation on which any adjustment whatever was made by the bureau for furniture and fixtures charged to expense.

It is now the contention of the taxpayer's representative that if the undepreciated balance of the said furniture and fixtures account as at January 1, 1918, is not restored to invested capital, and the amount of depreciation sustained during the year 1918 allowed as a deduction, then the company should be permitted to follow the practice of charg-

ing expenditures for furniture and fixtures to expense during the year 1918.

In view of the long practice of all the subsidiary companies of the United States Steel Corporation with respect to the treatment of this item on their books, and the fact that the difference between the amounts allowable as depreciation on such assets and the amounts expended therefor during any of these years is comparatively small, it was found that no material benefit would result to the Government through requiring each of the subsidiaries of the United States Steel Corporation now to reinstate such expenditures in a capital account and then allow depreciation on furniture and fixtures as a deduction for each year in lieu of allowing the deduction of the expenditures for such assets. It is accordingly decided that the action of the bureau in disallowing as the deduction representing expenditures by the Universal Portland Cement Co. for furniture and fixtures in the year 1918 should be reversed. This action was agreeable to the taxpayer in the interest of closing the case and was consistent with the final closing of the case for the year 1917.

CONTINGENT FUND ACCOUNT

The bureau increased the 1918 taxable income reported for the Universal Portland Cement Co. by $27,085.20 on the ground that it represented unreported income. The taxpayer alleges that no such sum was omitted from the return.

An examination of the facts in the case indicates that the bureau, in analyzing the contingent fund account on the company's books, erroneously shows the expenditures charged to that account of $20,000 in excess of the actual charges. The error occurred by reason of the fact that the bureau auditor considered that a certain expenditure of $20,000 representing a donation to the united war work fund was in addition to a certain sum instead of being included in it. This accounts for $20,000 of the $27,085.20 in controversy and reveals that the taxpayer is right in its contention to this extent.

The remaining amount, $7,085.20, represents a debt charged off in a prior year as worthless, which was recovered in 1918. This item should have been reported as taxable income for 1918. (Art. 52, regulations 45.) The taxpayer was, therefore, wrong to this extent.

It follows from the above that the taxpayer's contention should be allowed to the extent of $20,000, but denied as to the remaining $7,085.20.

LOSS ON SALE OF STOCK TO EMPLOYEES OF UNITED STATES STEEL CORPORATION

During the years 1917 and 1918 the United States Steel Corporation purchased shares of its own capital stock and in 1918 resold such shares to its employees under a plan for securing the continued services of such employees, in order to maintain and increase the well-being of the United States Steel Corporation. It is disclosed that the said shares were purchased by the corporation in open market at the prevailing market price. The price at which the said shares were purchased was greater than the price for which the same were sold to the employees in 1918, and the taxpayer now claims a loss deduction in that amount.

It has been held repeatedly that a corporation derives no taxable gain and suffers no deductible loss through purchase or sale of its own capital stock. (See Articles 542 and 563, Regulations 45; Simmons & Hammond Manufacturing Co. (1 B. T. A. 803); Cooperative Furniture Co. (2 B. T. A. 165); Union Trust Co. of New Jersey (12 B. T. A. 688); A. R. M. 114 (4 C. B. 137).)

In view of the position consistently taken by the bureau that a corporation suffers no deductible loss through purchase or sale of its own capital stock, the taxpayer's representatives agreed, as a measure toward obtaining a settlement of the case without prosecuting same before a court, to withdraw the contention here considered.

LOSS ON SPECIAL COMPENSATION STOCK UNITED STATES STEEL CORPORATION

During the years 1917 and 1918 the United States Steel Corporation purchased shares of its own capital stock for the purpose of making distributions to its employees as additional compensation for services rendered. It is understood that these shares were purchased in the open market at the prevailing market price.

During the year 1918 the corporation actually distributed the said shares to certain of its employees as additional compensation for services rendered. The market value of the shares at the time they were distributed to the employees or the value placed upon them by the corporation's board of directors for purposes of distribution as additional compensation was less than the amount paid for such shares, and it is this difference which the taxpayer now claims as a deduction from gross income for the year 1918. It is not specified in the taxpayer's brief whether such amount is claimed as a loss resulting through a purchase and sale of stock or as additional compensation paid to employees.

As shown by the record the corporation purchased shares of its own capital stock and distributed them as additional compensation at a value lower than their cost to the corporation. It has been repeatedly held that a corporation derives no taxable gain nor suffers a deductible loss through purchase or sale of its own capital stock. (Simmons & Hammond Manufacturing Co., supra; Cooperative Furniture Co., supra; and Union Trust Co. of New Jersey, supra.)

Section 234 (a) (1) of the 1918 law allows a deduction from gross income of all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered. In a case where such a payment is made in property instead of cash, the fair market value of the property at the time of payment fixes the amount to be deducted. A. R. M. 114, supra, and Hub Dress Manufacturing Co. (1 B. T. A. 197 (acquiesced in)).

The same issue was involved in consideration of the 1917 tax of this corporation, which acquiesced in the bureau's action in disallowing a deduction for the difference between cost of the stock so distributed and an assigned value when distributed. The taxpayer has conceded the disallowance for 1918, in arriving at a settlement of the entire case without the necessity for a trial in court. The deduction claimed has been disallowed.

SO-CALLED MECHANICAL ERROR IN AUDIT

The taxpayer claims that the bureau erroneously failed to allow as a deduction from the 1918 gross income of the Oliver Iron Mining Co. the sum of $16,215.19, said sum being a reasonable allowance for exhaustion or amortization of a leasehold owned by said company on the Aragon mine.

The amount allowed as depletion by the bureau in 1918 for the exhaustion of this leasehold was based on a bureau engineers' report dated July 5, 1925. In this report the bureau engineers approved the schedule submitted by the taxpayer without change. The valuations were based on an intercompany sale of this property by the National Tube Works Co. to the Oliver Iron Mining Co. on January 1, 1917. With respect to depreciation the bureau allowed a 5 per cent rate, which is consistent with the rate allowed on other mining plants owned by the Oliver Iron Mining Co.

Since the taxpayer has submitted insufficient evidence in substantiation of the claim, same has been denied.

OBSOLETENESS—ILLINOIS STEEL CO.

There was deducted from gross income in the consolidated return for 1918 an item under the heading of depreciation, but which in fact represented obsoleteness and cost of dismantlement of certain plant facilities retired from operations, abandoned and scrapped in that year. The taxpayer subsequently claimed a deduction of a slightly larger amount for such abandonment, which was not allowed by the bureau because it was considered that the composite rate of depreciation allowed on this company's assets comprehended normal retirement losses such as these. The claim was based upon article 143, regulations 45, providing for a deduction on sudden loss of usefulness in a business of capital assets resulting from discontinuance of the business or permanent discard or abandonment of the assets. The amount was asserted to represent cost of the assets, less accrued depreciation.

The taxpayer contended that such losses were not comprehended in the composite depreciation rates applied by the bureau, and that if such losses are not allowed then the depreciation rate should be increased. Additional evidence has been submitted, showing that the deduction claimed was properly written off the books in 1918 and that the amount claimed includes dismantling and removal expense, no part of which has heretofore been allowed as a deduction from gross income. The taxpayer's computation of loss through obsoleteness was based upon total costs, substantially all of which represented acquisitions in or prior to 1901. The rates of depreciation used by the taxpayer in computing the loss were the actual rates used upon its books and were comprehended in the composite rate allowed it by the bureau.

Since the taxpayer had failed to show the dates of acquisition of property acquired prior to 1901, it was agreed as a means toward settling the case to indulge in the presumption that the property had been fully depreciated prior to the taxable year and to allow obsolescence only on property acquired subsequent to 1901. Inasmuch as the facilities scrapped or abandoned in 1918 did not represent a whole plant, but only parts of several plants, instead of applying against the base the composite depreciation rates other rates comparable to those allowed other taxpayers engaged in the same line of business have been applied to the assets here involved.

INVENTORY ADJUSTMENTS

Illinois Steel Co.: The presumption of article 1582, regulations 45, etc., in cases of intermingled goods, that those on hand at date of inventory were those last received, is held to be rebutted here by facts that the material inventoried (ore) was graded as received, was distributed by grades, each shipment so distributed properly recorded in detail, and stored in V-shaped bins permanently closed at the bottom, so that the overhead grab buckets of necessity removed the latest receipts from the top of the bins. This treatment of inventories was consistent with the basis used in closing the 1917 case.

American Steel & Wire Co.: Two phases to the issue were involved, one the applicability here of the presumption of last goods received being those inventoried and the other a claimed reduction from cost to market value at December 31, 1918. As for the first point, evidence

was furnished to rebut the presumption cited, in article 1582, regulations 45, etc. (as amended by T. D. 3296, I-1 C. B. 40), the materials being ores, partly finished and finished goods. The book inventories were accepted as establishing proper cost. This action materially increased 1918 income and also reduced 1918 invested capital. With reference to reduction of inventories from cost to market at December 31, 1918, such a change was recognized by the bureau regulations, and upon submission of due proof of values the reduction has been allowed.

AMORTIZATION OF WAR FACILITIES

Section 234(a)(8) of the revenue act of 1918 provides:

"In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of the present war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous acts of Congress as a deduction in computing net income. At any time within three years after the termination of the present war the commissioner may, and at the request of the taxpayer shall, reexamine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the taxes imposed by this title and by Title III for the year or years affected shall be redetermined and the amount of tax due upon such redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252;"

The determination of the "reasonable allowance" for amortization of war facilities involves in the ordinary case a consideration of many factors. The factors which have at various times been considered are too numerous to relate here, but a few of the most common, and all of which are here involved, are:

(1) A determination of whether certain facilities were constructed, erected, installed, or acquired before or after April 6, 1917;

(2) Assuming that the construction, erection, installation, or acquisition occurred on or after April 6, 1917, a determination of whether the facilities were constructed, erected, installed, or acquired for the production of articles contributing to the prosecution of the war;

(3) Assuming a finding that the facilities did contribute to the prosecution of the war, a finding as to their disposition or use after the war;

(4) Assuming that the facilities were sold, scrapped, or abandoned, prior to or during the postwar period, a determination of their sale price or scrap or junk value;

(5) Assuming that the facilities retained some value in use to the business after the war, a determination of many factors in arriving at the "reasonable allowance" for amortization;

(6) From a consideration of many factors a determination of the period of time commonly designated as the amortization period over which the amortization is to be spread;

(7) After a determination of the amortization period a further determination as to how the amount of amortization is to be spread over the taxable years or periods falling within the amoritization period;

(8) A determination of what costs were incurred before the end of the amortization period;

(9) A determination of what costs were incurred after the end of the amortization period which were necessary to prevent an economic loss on facilities partially constructed, erected, installed, or acquired during the amortization period and the proper period of spread of the amortization allowance with respect to the costs necessary for this purpose; and

(10) In an affiliated group of corporations a consideration of the effect under both the 1917 and 1918 acts of transactions between the companies of the group with respect to facilities subject to amortization, which in turn often involves the much disputed question of the extent to which the affiliated group of companies is to be treated as a single unit, and the extent to which the separate legal entities of the members of the group are to be preserved.

A deduction for amortization was taken in the consolidated return for 1918, representing 25 per cent of the cost of assets subject to amortization, pursuant to article 184, regulations 45, and there was also a similar deduction taken in the 1919 return. According to the select committee's report (see infra), the amount of amortization claimed in Schedule A-19 of the 1918 return (committee's transcript, 1134 and 1138 was $75,627,027.11, on costs of $183,548,399.52. The amount of the revised claim is elsewhere stated to be $83,482,961.18 (transcript, 1015 and 1063) on costs of about $235,000,000 (p. 1082 of transcript), out of a total for all assets of $1,871,261,897.76 (p. 1082 id.). The allowance recommended by the bureau early in 1924 was shown as $55,063,312.60 (transcript, 1015, 1094, and 1112), on costs of $198,570,624.94.

The pending petition to the Court of Claims asserts that the costs subject to amortization were $227,504,706.83, and the deduction now claimed is $86,562,115.89, as compared to $75,534,459.52 claimed when the 1918 return was filed. The amount of amortization claimed of $86,562,115.89 was set up in the revised claim of 1922, upon which the bureau proposed to allow $55,063,312.60 late in 1923 and early in 1924.

As the amount of $55,063,312.60 allowance was determined, to some extent, by estimated production during the latter half of 1922, and during 1923, which was later found to have been greater, in fact, the matter was considered in a conference on January 24, 1924, between bureau engineers and auditors and an official of the taxpayer company, when it was agreed by them that no redetermination of the amortization claim would be made. Apparently the taxpayer took the position at the conference that if amortization were to be reduced, on account of an increase in the postwar production, then it would insist upon use of the high production in 1916, in determining war-time capacity, as an offsetting consideration.

The taxpayer appears to have been furnished copies of the conference memoranda of January 24, 1924 (see transcript, pp. 1055 and 1205), and with a supplemental report on one of the subsidiaries dated January 30, 1924, signed in the name of the deputy commissioner, by a chief of section. Based upon the language used in these memoranda and the report, as to the "final" closing of the amortization determination, the taxpayer has subsequently contended that the "allowance" then agreed upon became final and not subject to redetermination after March 3, 1924.

In 1924 and 1925 hearings were held by the (Senate) Select Committee on Investigation of the Bureau of Internal Revenue, pursuant to Senate Resolution 168, and on December 16, 1924, and later, during consideration of this taxpayer's case (pp. 1046, 1048, 1118, et seq.), statements were made indicating that the engineers' agreement was in no way consummated but the amortization allowance was still under consideration by the bureau when the case was taken up by the select committee, and the Income Tax Unit was preparing to request an opinion by the Solicitor of Internal Revenue on certain doubtful points affecting the amortization allowance. At the time of these hearings the select committee conceded an allowance for amortization of $27,136,987.89 (transcript, pp. 1015, 1094).

Under date of January 5, 1925, the commissioner issued written instructions, reopening the amortization claims of this consolidated group, and directing use of the actual production figures for the last half of 1922 and the entire year 1923, but disallowing any amortization on transportation facilities used in connection with the various common carriers owned by the group, and without change in the formula previously used to determine the postwar value in use of facilities acquired during the war. The bureau then began such redetermination, over the protest of the taxpayer, and the Income Tax Unit submitted a number of questions to the Solicitor of Internal Revenue, under date of May 21, 1925, including the matter of the commissioner's authority to make any further determination of the amortization allowance.

Many of the issues so raised were based upon discussions before the select committee above mentioned, and they were considered in S. M. 4225, IV-2 C. B. 168, wherein it was ruled, inter alia, that the bureau did have authority to make the further adjudication of the amortization allowance. Some of the rulings therein made have subsequently been modified by board and court decisions, but in general the present allowances conform to the rulings in S. M. 4225, supra. This ruling forms the bureau's answer to the questions raised by the select committee as well as other questions raised by the Income Tax Unit. Subject to later modifications by court and board decisions, the ruling has been followed in the present adjustment of the case. Some 16 questions with answers are set forth concisely in this published ruling and need not be repeated here.

The present total deduction for amortization is $7,242,161.69 less than that agreed upon at the conference of January 24, 1924. The taxpayer still insists that the allowance made at this conference and as stated in a subsequent letter to the taxpayer, constituted a final allowance and since the allowance became final prior to March 3, 1924, the commissioner is barred from redetermining amortization subsequent to that date, under the provisions of section 234 (a) (8) of the 1921 act.

The matter of reopening amortization is fully discussed in S. M. 4225, supra, and although the decision was to permit reopening, there is at least some doubt concerning the matter. (See dissenting opinion of Mr. Love in the case of Thomas P. Beal et al., Executors, 13 B. T. A. 677). The decision to reopen is, of course, to the Government's advantage.

It will be observed that section 234 (a) (8) makes no specific direction as to the manner of computing the "reasonable deduction" for amortization, and it furnishes no definite plan for apportionment of the amount to any particular taxable period or periods. The provision has been held to be a relief measure for taxpayers and therefore to be liberally construed in their favor. G. M. Standifer Construction Corporation et al. (4 B. T. A. 525) (acquiesced in); Manville-Jencks Co. (4 B. T. A. 765) (acquiesced in); and John Polachek (8 B. T. A. 1). The authorities so far available are in apparent agreement that in fixing upon an amortization allowance, the deduction must be the difference between the war-time cost and the postwar value of the facility. While the first element, cost, may not be difficult of determination, the

other element is one presenting great difficulty because of the standards of value to be applied and the variety of situations disclosed by the cases. F. Burkhart Manufacturing Co. (9 B. T. A. 1128).

Amortization having been claimed in the 1918 and 1919 returns, and in subsequent claims, the amount allowable is amply protected against the statute of limitations, by section 1209 of the revenue act of 1926.

After S. M. 4225, supra, held that since the bureau was free to redetermine the allowable amortization, the taxpayer was free to ask for an additional allowance, a claim was filed for additional amortization on other facilities costing approximately $55,000,000. This claim was based principally upon costs incurred after the war period which were alleged to be necessary to complete facilities started during the war period. This class of expenditures is recognized as being subject to amortization. (See article 185 (b), Regulations 62.) The engineering section of the bureau advises that although this claim was believed to have considerable merit and would apparently have entitled the taxpayer to a considerable allowance, further field investigation would have been necessary, so that the taxpayer in order to avoid delay in closing its case, agreed to withdraw its claim in this respect.

As above indicated, the present allowance is $7,242,161.69 less than that recommended in the conference report of January 24, 1924. This is due to a variety of causes, the principal of which may be summarized as follows:

The allowance recommended in 1924 was based on a consideration of the facilities as a whole, whereas the present allowance is based upon a consideration of smaller units pursuant to S. M. 4225, supra The prior allowance was based on a comparison of average pre-war production (with the year 1916 excluded) with the average postwar production, including an estimate of production for part of the year 1922 and the year 1923. As opposed to this, the present allowance is based on a comparison of maximum war-time capacity (including that of the year 1916) with the maximum postwar production. This is contrary to S. M. 4225, supra, but consistent with the board's later decisions in the Manville-Jencks Co. case, supra, and the cases of United States Refractories Corporation (9 B. T. A. 671) (acquiesced in, as to this point), and Nunn, Bush & Weldon Shoe Co., 15 B. T. A. 918). In this connection it may be noted that the Manville-Jencks Co. has instituted suit in a United States district court, subsequent to the board decision, seeking allowance of additional amortization.

Another distinction between the 1924 recommended allowance and the present proposed allowance is that amortization was granted to railroad companies in the prior allowance, whereas it is excluded in the present allowance pursuant to S. M. 4225, supra, and the commissioner's instructions of January 5, 1925.

The bureau engineers estimate that the principal difference between the amortization allowance recommended in 1924 and the present allowance is caused by an application of that part of the Manville-Jencks Co. decision, supra, relating to the basis of comparison of war-time production and capacity with postwar production. This principle is generally recognized as of doubtful soundness and has recently been rejected by the United States District Court of Connecticut in the case of the Briggs Manufacturing Co. *v.* United States (30 Fed. (2d) 962), on appeal in the United States circuit court of appeals, and by the District Court for the Western District of Pennsylvania in the case of Diamond Alkali Co. against D. B. Heiner, as yet unreported. Notwithstanding the two latter decisions, the Government has obtained the benefit of the board's decision in the present adjustment of the case. Also, as above indicated, the Manville-Jencks Co. has instituted suit in the United States district court, subsequent to the board's decision, seeking allowance of additional amortization so that the principles of the board decision here relied upon may yet be overruled in the same case.

SPREAD OF AMORTIZATION

At the outset it should be observed that Congress made no specific provision in the law for application of the deduction for amortization after the amount of the "reasonable deduction" had been determined. The method of allowing the deduction was then left to departmental regulation, subject to a reasonable interpretation of the congressional intent in providing the allowance to taxpayers.

Article 185 of Regulations 45 (original edition, approved April 17, 1919) provided that the amount to be extinguished by amortization should be spread in proportion to the net income between January 1, 1918, and the date applicable, as follows: (1) If permanently discarded, the date when discarded; (2) if still in use but certain to be permanently discarded before the last installment payment of the tax covered by the return, the date when the property will be so permanently discarded; (3) in the case of other property, April, 1919. In the revision of Regulations 45, approved January 28, 1921, article 185 appears as amended by Treasury Decision 3123 (4 C. B. 183), and provides that the amortization allowance shall be spread in proportion to net income (computed without benefit of the amortization allowance) between January 1, 1918 (or if the property was acquired subsequent to that date, January 1 of the year in which acquired), and either of the following dates: (1) If the property has been sold or permanently discarded, or will be so disposed of, within three years after the termination of the war, the date when the property was or will be sold or permanently discarded as a war facility; or (2) in the case of property retained in use, "the actual or estimated date of cessation of operation as a war facility." The title to article 185 as so amended is "Amortization Period," and the same appellation is found in article 185 of Regulations 62. These two articles were amended February 21, 1928, by Treasury Decisions 4133 and 4134, VII-1 (C. B. 236, 237), which called for a definite segregation of costs of facilities "during the amortization period," by taxable periods, except that 1917 costs should be added to the first taxable period ending after January 1, 1918.

These amendments then provided for determination of the allowances separately according to costs incurred in the several taxable periods falling partly or wholly with "the amortization period," and each allowance spread over that taxable period and the succeeding periods falling partly on wholly within "the amortization period," apportioned according to the net income of each taxable period falling within "the amortization period."

Article 185, Regulations 62, recognized that amortization is allowable on facilities that were never used to produce war articles, because not completed in time, and provided for an apportionment of amortization on facilities that were employed to produce war articles "over the respective accounting periods of the taxpayer, having reasonable regard to his gross and net income, and where separately ascertainable the income from the facilities upon which amortization is claimed, between January 1, 1918 (or if the property was acquired subsequent to that date, January 1 of the year in which acquired), and the actual or estimated date of cessation of operations as a war facility." This regulation further provided that where property was not completed in time for use in the production of articles contributing to the prosecution of the war, the allowance should be apportioned on the basis of the expenditures made on account of which amortization is allowed.

In the present case December 31, 1918, has been accepted as the date of cessation of operation as a war facility, in the case of all companies except one, which was engaged in performing a war contract until December 31, 1919. Therefore part of the amortization allowed on 1917 and 1918 costs of this company has been apportioned to 1918 and 1919.

There were also some minor costs incurred in 1920 by two of the companies amounting to approximately $54,000 which, under article 185, regulations 62, have been apportioned to that year and the amount allowed thereon deducted in that year.

A number of cases have been decided by the Board of Tax Appeals as to the proper spread or apportionment of the amortization allowance, and reference will be made to some of them.

In the case of Walcott Lathe Co. (2 B. T. A. 1231), not acquiesced in, the board held that the cost of war facilities was not intended to be recovered by taxpayers over a long life of wear and tear, but should be recovered out of the articles produced by such war investment, or, in other words, out of the war profits produced by those facilities. This is the basis for considering the allowance as a special relief measure to benefit taxpayers who engaged in the production of articles to promote the progress of American arms. The entire allowance in that case, which was based upon a sale of the facilities in 1923, was apportioned to 1918.

In the case of John Polachek (3 B. T. A. 1051), the board held article 185 of Regulations 45 to be reasonable, and disallowed any amortization deduction for 1919 on war facilities acquired in 1918 but never used for war purposes. The board stated that it could see no reason for establishing an "amortization period" different from that allowed in the case where facilities were actually used for war purposes but abandoned at the end of 1918, and it held that said "period" was determined by the time of abandonment or stopping of production of war articles. All the amortization was apportioned to 1918, upon the holding that if there were not sufficient war profits to absorb the amortization deduction, then the deduction should not therefore be applied against peace-time profits. The effect of the decision was to deny the taxpayer any benefit from about half the amortization found allowable, and the dissenting opinion of three members of the board was in favor of spreading the allowance from 1918 to 1920, when the taxpayer began to use the facilities for peace-time purposes.

In the case of G. M. Standifer Construction Corporation et al., supra, it was stipulated that "the amortization period" extended from January 1, 1918, to February 12, 1920, but the consolidated group had net income only in 1919 and 1920. The commissioner contended for an apportionment of the amortization allowance upon the basis of use, as shown by the gross income, and the taxpayer for use of net income. The board noted the statutory lack of direction as to apportionment but felt moved by the relief purpose of the law to sanction an apportionment upon the basis of net income before application of amortization.

In the case of American-Hawaiian Steamship Co. (7 B. T. A. 13), acquiesced in, the board again referred to the absence of express statutory provision for apportionment of the allowance, and after holding that "the amortization period" extended from February 15, 1918 (when the property was acquired) to February 28, 1919 (stipulated), set out to determine whether a reasonable result was obtained by the bureau's proposed spread. In that case fiscal years were involved, and

the board apportioned the deduction between two fiscal years upon the basis of net incomes of each taxable period, falling partly or wholly within the amortization period specified, without regard to calendar years.

The decision in the case of Pratt & Letchworth Co. (7 B. T. A. 792), acquiesced in, discloses that the taxpayer had a net loss in 1919 and a net income in 1918 in excess of its amortization allowance, and held that if any apportionment were necessary, the entire amount should be allocated to 1918.

The decision in the second Polachek case (8 B. T. A. 1) pointed out that the word "amortized" may denote a period of years, but does not require a spread over more than one year, depending upon the statutory intendment. After adhering to its views that this statutory provision was a relief measure, to be liberally construed, the board held that the deduction should all be applied against the war income from the amortized facilities, which was in 1918 only, and if there were no income remaining, after application of part of the allowable amortization, no further relief was possible.

In the case of United States Refractories Corporation, supra, the commissioner declined to acquiesce in that portion of the decision that apportioned to 1918, amortization on construction or acquisition costs that were not incurred or borne until 1919, but were necessary to complete construction begun in 1918 that would have been a total loss unless so completed. The board's action was based upon the ground that the war-time production did not continue beyond December 31, 1918, which was accepted as the termination of "the amortization period."

In the case of F. Burkhart Manufacturing Co., supra, the board said that the law intended "to permit a deduction against war profits of extraordinary expenditures for property for war purposes which the taxpayer would find useless upon the termination of the war," and the deduction might be applied to one year or to a longer period.

In the case of Williams Harvey Corporation (16 B. T. A. 752) a war facility or plant was begun in 1917 but not finished until 1918, when use began and lasted until 1923. The taxpayer had no net income in 1918 and a net loss in 1920. It had a net income in 1919. The board held that war burdens might exist beyond November 11, 1918; that the deduction for amortization depends upon "the actual relation between the income taxed and the war burdens"; that facilities acquired in 1918 but never used for war products, were not subject to amortization allowance from peace-time income, because the law was designed to relieve against burdens of extraordinary war income and high rates; and that as the facilities were put to use in 1918 and were not suitable for peace-time business, the entire deduction for amortization should fall in 1919, the only year having a net income. The end of the amortization "period" was fixed at October 1, 1920.

In the case of Belfast Investment Co. et al. (17 B. T. A. 213) the board referred to the amortization period as determined by the time when the taxpayer abandoned the facilities or ceased producing war articles.

In the case of Walter C. Palmer, trustee in bankruptcy, of the Racine Auto Tire Co. *v.* United States (67 Ct. Cls. 648), not appealed, the court held that the excess of an amortization allowance over the net income for 1918 might properly be allowed as a deduction for 1919 upon the ground that the provision in section 234 (a) (8) of the 1918 act gave the taxpayer a right to have the sums allowed as amortization deducted over the years, including 1918 and thereafter, until the entire amount of the allowance is exhausted. The excess of the amortization allowance over the 1918 net income was accordingly applied to reduce 1919 net income, as opposed to the board decisions in the two Polachek cases, supra.

The apportionment of the amortization in the present case has been made as follows:

Apportionment to—	
1918	$40,889,605.59
1919	6,915,772.99
1920	15,772.33
	47,821,150.91

From the foregoing it will be observed that the amortization on 1919 costs has been applied to 1919 net income, and that on 1920 costs to 1920 net income. This is in harmony with the commissioner's refusal to acquiesce in the board's decision in the case of United States Refractories Corporation, supra.

The taxpayer has protested vigorously against this action but in order to settle the issue has agreed to withdraw its objections if the bureau will apply the amortization apportioned to 1919 and 1920 against only the income from Government contracts in those two years, which is taxable at 1918 rates under section 301 (c) of the revenue act of 1918. In this connection it may be observed that in the G. M. Standifer Construction Corporation case, supra, the board held that in computing the war-profits tax for 1920 the taxpayer group was entitled to apply the amortization apportioned to 1920 against the Government contract net income subject to 1918 rates. The board declined to apply any of the amortization applicable to 1920 against the taxpayer's net income from "peace-time work," while recognizing the propriety of apportioning various expenses as between Government contract and ordinary income. The board further stated that the cost of war facilities for which the amortization deduction is allowed relates or appertains only to the income from Government contracts, and such war-cost deduction has no relation whatever to peace-time income from which a deduction for depreciation on such war facilities is allowed. The finding of facts in the decision (p. 537) does not show whether or not the facilities used to produce the so-called "peace-time" contract income were acquired after April 6, 1917, or for any reason would be subject to an amortization allowance independently of the Government contracts, but the inference is possible that if any such facilities were acquired after April 6, 1917, and were used to produce ships or other products aiding in the prosecution of the war or for transporting articles or men for war purposes, some of the amortization might properly be applied to the income accruing from that source, which would not be Government-contract income subject to 1918 rates.

In view of the conflicting theories as to the spread of amortization, it is believed that the bureau is justified in accepting the taxpayer's offer of settlement. If the amortization allowed on 1919 and 1920 costs were deducted from 1918 income instead of from Government contract income in 1919 and 1920 subject to 1918 rates, the refunds now proposed would be increased by approximately $2,500,000, whereas if both the taxpayer's contentions were denied the present proposed overassessment would be decreased by only approximately $500,000.

As part of the present consideration of a possible settlement of the pending litigation, Mr. F. T. Eddingfield, a member of the special advisory committee (who had not been previously connected with the case) was designated to make an independent study of the bureau engineers' determination of amortization. As a result of his investigation, Mr. Eddingfield concluded that the result reached by the bureau engineers was conservative so far as the interests of the Government were concerned and should be accepted. The members of the bureau committee, after a consideration of the case, concur in the result obtained.

It may be seen from the foregoing that the subject of amortization has been given an unusual amount of consideration in this case. It has been considered and reconsidered by the bureau on several occasions; in 1924 by the Senate select committee; thereafter the matter was covered in a detailed ruling by the then Solicitor of Internal Revenue as is set out in the published ruling S. M. 4225, supra; several board and court decisions thereafter appeared which affected the case and the matter was thereafter considered in the light of these decisions; again, the matter was carefully considered by the bureau special committee appointed to consider the case. These many considerations, made necessary by the prior investigation of the Senate and later board and court decisions, have contributed largely to the delay incident to a final disposition of the matter. On the other hand, through delay many of the uncertainties previously involved have been cleared up by the later board and court decisions.

INVESTED CAPITAL

Section 240 of the revenue act of 1918 provides:

"That corporations which are affiliated within the meaning of this section shall, under regulations to be prescribed by the commissioner with the approval of the Secretary, make a consolidated return of net income and invested capital for the purposes of this title and Title III, and the taxes thereunder shall be computed and determined upon the basis of such return."

Section 326 of the revenue act of 1918 provides:

"That as used in this title the term 'invested capital' for any year means (except as provided in subdivisions (b) and (c) of this section):

"(1) Actual cash bona fide paid in for stock or shares;

"(2) Actual cash value of tangible property, other than cash, bona fide paid in for stock or shares, at the time of such payment, but in no case to exceed the par value of the original stock or shares specifically issued therefor, unless the actual cash value of such tangible property at the time paid in is shown to the satisfaction of the commissioner to have been clearly and substantially in excess of such par value, in which case such excess shall be treated as paid-in surplus: *Provided*, That the commissioner shall keep a record of all cases in which tangible property is included in invested capital at a value in excess of the stock or shares issued therefor, containing the name and address of each taxpayer, the business in which engaged, the amount of invested capital and net income shown by the return, the value of the tangible property at the time paid in, the par value of the stock or shares specifically issued therefor, and the amount included under this paragraph as paid-in surplus. The commissioner shall furnish a copy of such record and other detailed information with respect to such cases when required by resolution of either House of Congress, without regard to the restrictions contained in section 257;

"(3) Paid-in or earned surplus and undivided profits; not including surplus and undivided profits earned during the year;

"(4) Intangible property bona fide paid in for stock or shares prior to March 3, 1917, in an amount not exceeding (a) the actual cash value of such property at the time paid in, (b) the par value of the stock or shares issued therefor, or (c) in the aggregate 25 per cent of the par value of the total stock or shares of the corporation outstanding on March 3, 1917, whichever is lowest;

"(5) Intangible property bona fide paid in for stock or shares on or after March 3, 1917, in an amount not exceeding (a) the actual cash value of such property at the time paid in, (b) the par value of the stock or shares issued therefor, or (c) in the aggregate 25 per cent of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year, whichever is lowest: *Provided*, That in no case shall the total amount included under paragraphs (4) and (5) exceed in the aggregate 25 per cent of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year; but

"(b) As used in this title the term 'invested capital' does not include borrowed capital.

"(c) There shall be deducted from invested capital as above defined a percentage thereof equal to the percentage which the amount of inadmissible assets is of the amount of admissible and inadmissible assets held during the taxable year.

"(d) The invested capital for any period shall be the average invested capital for such period, but in the case of a corporation making a return for a fractional part of a year it shall (except for the purpose of paragraph (2) of subdivision (a) of section 311) be the same fractional part of such average invested capital.

"The average invested capital for the pre-war period shall be determined by dividing the number of years within that period during the whole of which the corporation was in existence into the sum of the average invested capital for such years."

The same general method of computing consolidated invested capital has been adopted for 1918 as was used for 1917 and was fully explained to the Joint Committee on Internal Revenue Taxation at that time. The issue has two main aspects, one as to the correct valuations of assets at various dates, and the other as to the correct theory or fundamental basis of determining consolidated invested capital, under the law. The situation here involved is a so-called class A affiliation, a parent and its subsidiaries, where one corporation owns or controls the stock of the subsidiary, and grows out of the following transactions:

Prior to 1901 there had occurred a series of changes in the domestic manufacture of steel, such as from the making of Bessemer steel to open-hearth steel, and the so-called integration of operations, or "rounding-up plants" to permit continuous processes. Improvement of processes further increased the need of available ore supplies, or reserves, with the result that a number of the large steel manufacturing concerns had begun to acquire mines and transportation facilities, by boat and by rail, in the years from 1898 to 1900. Marketing areas, as well as mines, were considered important.

In September, 1898, the Federal Steel Co. was incorporated, with a capitalization of almost $100,000,000, representing a consolidation of the Illinois Steel Co., the Lorain Steel Co., the Minnesota Iron Co. (owning ore, a railroad, and a fleet of ore vessels), and the Elgin, Joliet & Eastern Railway Co. In December, 1898, the principal tinplate manufactories "integrated," or consolidated, to form the American Tin Plate Co., with a capital of $46,000,000 issued stock, and a month later the American Steel & Wire Co. was formed by a consolidation of all the leading wire-product manufacturers, with a capital of $90,000,000 in stock. In February, 1899, 12 per cent of the ingot production of the country consolidated into the National Steel Co., with issued capital stock of $59,000,000. The National Tube Co. was formed by June, 1899, by large concerns making various kinds of tubes and pipes, and had a capital stock issued of $80,000,000. In March, 1899 (or in 1900), the makers of sheet steel in large tonnage combined to form the American Sheet Steel Co., of a capital of $49,000,000 issued stock, and in April, 1899, the American Steel Hoop Co. was formed of the leading makers of hoops, bands, and cotton ties, with a capitalization of $35,000,000. In April, 1900, the American Bridge Co. was formed, with a capital of $61,000,000 issued stock. In March, 1900, was organized the Carnegie Co. of New Jersey, with a capitalization of $320,000,000 (half in bonds), to take over the old Carnegie Steel Co. (Ltd.), partnership, the Carnegie Steel Co. (Pennsylvania corporation), which became the operating company, the H. C. Frick Coke Co., and the Bessemer & Lake Erie Railroad Co. At that time the Carnegie interests controlled 18 per cent of the country's ingot production. The Shelby Steel Tube Co. was incorporated in February, 1900, with $13,150,000 issued stock, and had substantial control of the seamless-tube industry.

Aside from the avoidance of costly competition and the economic advantages of integration of the various operations of the business, the trend toward large consolidations was accompanied by great increases in capitalization. Heavy stock commissions were also received by the promoters of these consolidations as their compensation. For example, the promoters of the American Tin Plate Co. received $10,000,000 of common stock; at least $5,000,000 in securities went to the promoters of the National Steel Co. and the American Steel Hoop Co.; $11,600,000 in common stock went to the promoters of American Steel & Wire Co.; $20,000,000 common stock to promoters of the National Tube Co.; and at least $7,250,000 of common stock to the American Bridge Co., promoters and bankers. In the formation of the Federal Steel Co. the underwriting syndicate received $8,400,000 common stock and $5,680,000 preferred stock, for $4,800,000 cash and their services. (Part I of Report of the Commissioner of Corporations on the Steel Industry, 1911, mentioned below.)

In the years next preceding 1900 there existed in the steel industry so much wasteful and destructive competition that some of the leaders, including Andrew Carnegie, began to consider the advisability of merging the two corporations above named. All these men, except Mr. Carnegie, later became directors of the United States Steel Corporation. Other purposes instigating the formation of the present corporation were the economies expected to result from specialization of production, as to processes and kinds of articles manufactured, improved transportation and distribution, both of raw materials and finished products, realignment of factories, changed methods of mining ore, stabilization of prices, reduction in supervision costs, etc., and the building up of a large and profitable foreign market. At this time, in 1900, Mr. Carnegie was desirous of retiring from active participation in the steel business, and was anxious to sell. There had been friction and litigation between him and the other leading partner (H. C. Frick) in the old Carnegie partnership.

All the above-named corporations were later merged into the present United States Steel Corporation, which was organized on April 1, 1901, as a holding company. At that time its capitalization (including bonds) was about $1,402,000,000, consisting of the following:

Preferred stock	$510,000,000
Common stock	508,000,000
Corporate bonds	303,000,000
Underlying and miscellaneous obligations	81,000,000
	1,402,000,000

The underwriting syndicate received for their services securities which netted them in cash some $62,500,000. The newly organized combination possessed ore, coal, limestone, natural gas, railway and steamship companies, blast furnaces, steel works, rolling mills, finishing plants, etc., and was a thoroughly integrated business concern. At organization it controlled about two-thirds of the country's production of crude steel, and between one-half and four-fifths of the principal rolled-steel products. The steel works acquired had an annual capacity of over 9,400,000 tons of crude steel and over 7,700,000 tons of finished rolled-steel products; several railroads, with over 1,000 miles of main track and a large mileage of second track and sidings; a fleet of 112 Lake ore vessels; iron-ore reserves in the Lake region then estimated at about 500,000,000 to 700,000,000 tons; more than 50,000 acres of coking-coal lands, besides a great acreage of other grades of coal; and numerous miscellaneous properties. There were acquired in 1901, shortly after April 1, the following concerns: The American Bridge Co., above mentioned, the Lake Superior Consolidated Iron Mines, the Bessemer Steamship Co., and the Shelby Steel Tube Co. Three important competing concerns were acquired after 1901, the first being the Union Steel Co., in 1902, which concern had absorbed the Sharon Steel Co.; next the Clairton Steel Co. in 1904; and the Tennessee Coal, Iron & Railroad Co. during the panic of 1907.

The 1901 consolidation was handled by the J. P. Morgan & Co. syndicate, which agreed to deliver at least 51 per cent of the stocks (and in fact delivered practically all of such stocks) of the various companies to be acquired, in exchange for stocks and bonds of the new United States Steel Corporation. The members of the syndicate paid in cash $25,000,000, for which, together with their services, they received $130,000,000 par value of new stock, half being preferred and half common. They sold this stock to net them the $62,500,000 in cash above stated.

On January 28, 1905, Congress directed the Secretary of Commerce and Labor to investigate the steel and iron industry of the country with a view to ascertaining to what extent the United States Steel Corporation controlled the output and prices of finished product made by independent companies dependent upon it for their raw material, and to report any restraints by it of commerce, foreign or domestic. A report was subsequently made by the Commissioner of Corporations, Department of Commerce and Labor, of which Part I, dealing with the taxpayer herein, was transmitted to the President on July 1, 1911. On October 26, 1911, the Attorney General, pursuant to power vested in him by section 4 of the so-called Sherman antitrust law (the act of July 2, 1890, ch. 647, 26 Stat. L. 209; Comp. Stat. 1913, sec. 8823 et seq.), instituted an action to dissolve the United States Steel Corporation and affiliated companies and to enjoin permanently their officers and stockholders. The decision by the district court of New Jersey (by four circuit judges) on June 3, 1915, gives considerable data on the history and workings of the consolidated group. (See 223 Fed. 55.) The decision of the case by the Supreme Court sheds little or no light upon the facts of interest in the present issue. (251 U. S. 417.)

The report of the Commission of Corporation is largely concerned with the capital investments of the several principal corporations in the present consolidated group, and the valuations of assets in 1901 there set forth have been largely used in determining the statutory invested capital herein. Valuations were arrived at, in said report, by three methods. By assuming that the tangible assets of the constituent companies were about equal to the preferred stock, which was usually equal to the cash purchase price offered by the promoters, the common stock

being issued as a bonus, and after adding surplus earnings and cash paid in, a total valuation of the tangible assets at April 1, 1901, is shown to be about $676,000,000. Based upon the market values of the securities issued by the various concerns, a total value for all assets, including intangible merger values in the consolidations prior to the United States Steel Corporation, would amount to $793,000,000. The third method of valuation, which was preferred by the report, was a detailed valuation of assets by departments or classifications. These figures showed a total value for tangible assets of $682,000,000, in which the ore properties were fixed at $100,000,000, whereas the possessor corporations were claiming ore values alone of $700,000,000. Thus, by disregarding so-called merger or integration value, or monopolistic advantages in controlling the bulk (stated as 75 per cent of lake ores) of the iron ore of the country, increased earning power through elimination of competition, etc., the tangible assets represented about 50 per cent of the total capitalization of the United States Steel Corporation. The valuations adopted in the report above mentioned are certainly ultraconservative, especially from a tax point of view, for the avowed purpose was to determine the correct earning power or earnings of the group, based upon actual investment. (Page XX, Introduction, Commissioner of Corporations' Report.)

The taxpayer's claimed value of $700,000,000 for the ore properties was set up in certain litigation in July, 1902, when a court suit was pending, involving a proposed conversion of a portion of its preferred stock into bonds. The difference in these two valuations represented estimates of prospective values resulting from combinations, compared to market or sale values of separate ore properties at the time (1901). The Commissioner of Corporations' report above cited showed a tangible investment in 1910 of some $1,187,000,000, resulting from the policy of investment of accrued earnings in additional tangible properties, especially ore leases. The classifications were valued at 1901 as follows:

Manufacturing, including blast furnaces	$250, 000, 000
Transportation facilities	91, 500, 000
Coal and coke	80, 000, 000
Natural gas	20, 000, 000
Limestone	4, 000, 000
Working assets	136, 500, 000
Ore deposits and leases	100, 000, 000
	682, 000, 000

Based upon the annual earnings for the period 1901 to 1910, as shown on page 53 of the report, the tangible asset valuation of $682,000,000 was almost equaled by the earnings for the first six years of operation, thus indicating a material intangible value acquired at organization in 1901. And during that period competition was not stifled by the United States Steel Corporation. (P. XXIII of letter of transmittal of report, p. 56 of the report, and pp. 96 and 97, of 223 Fed. Rept.) The taxpayer's proportion of trade increase during the decade from 1901 was less than that of its competitors, but during that period it materially strengthened its position in the steel business, as to efficiency and capacity, through developing control of raw materials, transportation, and distribution agencies, and manufacturing processes.

On April 1, 1901, within a few weeks after the papers of incorporation had been taken out, the United States Steel Corporation was definitely launched. On that date, or immediately thereafter, it acquired the stocks and bonds of various corporations in 13 constituent groups, in exchange for its own preferred and common stocks and bonds. Shortly thereafter—about June 1, 1901—one more, the Shelby Steel Tube Co. group, was added. Of the 14, the stock of 6 were actively traded in on the New York Stock Exchange, i. e., Federal Steel Co., American Steel & Wire Co., National Tube Co., National Steel Co., American Tin Plate Co., and the American Steel Hoop Co. The American Bridge Co. was regularly quoted on the outside market and the American Sheet Steel Co., though not actively traded in, was quoted on the Pittsburgh market. Shelby Steel Tube Co. was quoted on the Chicago Stock Exchange. There were no market quotations for the remaining companies; i. e., Carnegie Co., Lake Superior Consolidated Iron Mines, Oliver Iron Mining Co., Pittsburgh Steamship Co., and Bessemer Steamship Co.

In determining the value of the stocks acquired by the United States Steel Corporation in 1901, the commissioner of corporations took market quotations for the stocks of the nine companies on which quotations were available, using as the period for quotations the years 1899 and 1900 in order to exclude any merger, integration, or monopolistic values that might be reflected in quotations nearer April 1, 1901. As to the remaining companies, quotations for the stocks of which were not available, the commissioner of corporations used what he considered the best information available. Carnegie Co. stock was valued at par based on sales of 13 shares found to have been made at that price in February, 1901; Lake Superior Consolidated Iron Mines stock was valued at $75, representing the highest asked price in 1900; the one-sixth interest in the Oliver Iron Mining Co. and the Pittsburgh Steamship Co. (the other five-sixths having been secured in the purchase of the Carnegie Co.) was arbitrarily placed at the par value of the preferred stock of the United States Steel Corporation issued therefor, no value whatever being attributed to the United States Steel Corporation common stock of an equal par value which was also issued therefor. The Bessemer Steamship Co. stock was valued at $8,500,000, since it was acquired through the issue of that amount of purchase money obligations, these being issued by the Pittsburgh Steamship Co.

The values thus established by the commissioner of corporations are the values which the Bureau of Internal Revenue used in determining the invested capital of the United States Steel Corporation for the years 1917, 1918, 1919, and 1920. It was against the use of these values that the company so strenuously protested at the time the 1917 case was up for final settlement.

The taxpayer argued that, for tax purposes, there was no justification for using quotations prevailing in 1899 and 1900 as a test of the value of the stocks *at the time acquired,* since section 207 of the 1917 act and section 326 of the 1918 act provide that there shall be allowed in invested capital the *"Actual cash value* of tangible property, other than cash, bona fide paid in for stock or shares, *at the time of such payment."* (Italics supplied.) The tangible property with which we are here dealing, according to the United Cigar Stores Co. decision (infra), is the stock of the constituent companies acquired by the United States Steel Corporation in 1901. The taxpayer objected even more strenuously to the use for invested capital of the commissioner of corporations' method of valuing the Carnegie Co. stock and the Lake Superior Consolidated Iron Mines stock.

The taxpayer submitted a proposal in the form of a schedule setting forth what it believed to be the actual cash values of the securities acquired in 1901. This proposal increased the values determined by the commissioner of corporations in the amount of $185,430,555, summarized as follows:

1. Federal Steel Co	$35, 771, 271	
2. American Steel & Wire Co		
3. National Tube Co		
4. National Steel Co		
5. American Tin Plate Co		
6. American Steel Hoop Co		
7. American Bridge Co		
8. American Sheet Steel Co		
9. Shelby Steel Tube Co	No change.	
10. Oliver Iron Mining Co., one-sixth interest		
11. Pittsburgh Steamship Co., one-sixth interest		
12. Bessemer Steamship Co		
13. Lake Superior Consolidated Iron Mines		32, 859, 284
14. Carnegie Co		116, 800, 000
		185, 430, 555

The increase of $35,771,271 shown for the first eight companies represents average market quotations between January 1 and April 1, 1901. During this period there was an increase in value of the preferred stocks of all eight companies, an increase in value of the common stocks of six companies, and a decrease in value of the common stocks of two companies as compared with the average quotations for the years 1899 and 1900, which were used by the commissioner of corporations. In checking the taxpayers' quotations certain differences arose as to the proper procedure to be followed in arriving at daily averages, also certain errors were found, the revision of which reduced the values shown by the taxpayer in the amount of $2,023,983. These corrections the taxpayer conceded. Furthermore, it was found that by using the five months' period prior to April 1, 1901, there would be little difference in the result, but by using six months there would be a reduction of approximately $16,000,000. As a step toward a final settlement the taxpayer agreed to a further reduction of its claimed value by $8,000,000, representing the use of approximately a 5½-month prior period, which was accepted. This reduced the additional value to be allowed for these eight companies to $25,747,288.

It will be noted that taxpayer's schedule proposed no change in the valuations assigned by the commissioner of corporations to the stocks of the Shelby Steel Tube Co., the Oliver Iron Mining Co. (one-sixth interest), the Pittsburgh Steamship Co. (one-sixth interest), or the Bessemer Steamship Co. In the case of the stock of the Shelby Steel Tube Co. the only quotations available were a few reported on the Chicago Stock Exchange. This stock was not acquired by the United States Steel Corporation until about June 1, 1901, at which time the common and preferred stocks of the United States Steel Corporation itself were being actively traded in on the New York Stock Exchange, the common selling at about $50 and the preferred at about $100. On the basis of the market price of the stock issued in exchange for the Shelby Steel Tube Co. stock, the value of the Shelby stock would be slightly lower than the value assigned by the commissioner of corporations, which apparently used the average of the quotations for the year 1900 and for the first few months of 1901.

In valuing the one-sixth interest of the Oliver Iron Mining Co. and of the Pittsburgh Steamship Co. the taxpayer could offer no better basis than that used by the commissioner of corporations. As to the Bessemer Steamship Co., no purpose would be served in changing the commissioner of corporation's valuation, since this stock was acquired by an issue of purchase-money obligations, which represents borrowed capital and not invested capital.

The commissioner of corporations valued the stock of the Lake Superior Consolidated Iron Mines at $22,060,429, based on $75 per share, which was the highest asking price found among the very meager quotations existing during the year 1900. The physical assets owned by

this company and its subsidiaries consisted principally of valuable iron-ore properties in the Lake Superior region and of a very valuable railroad, the Duluth, Missabe & Northern Railway Co.

The commissioner of corporations valued the entire physical properties (not including current assets) owned by all of the companies acquired by the United States Steel Corporation in 1901 at $545,500,000. The Bureau of Internal Revenue apportioned this value among the various companies and used the values so allocated for depletion and depreciation purposes. The amount so apportioned to the Lake Superior Consolidated Iron Mines and its subsidiaries was $64,901,987. Using this as a basis, and deducting reserves and liabilities, a net value of $54,919,713 is found, which amount the taxpayer proposes to use as the fair value of the Lake Superior Consolidated Iron Mines stock at April 1, 1901. In determining the profit derived from an intercompany reorganization which occurred in 1913, the bureau used $54,919,713 as the cost of this stock in 1901, thereby limiting the profit which would have been restored to invested capital under L. O. 1108, III-1 C. B. 412, had the stock been valued at $22,060,429 on the basis of $75 per share. For each share of stock of $100 par value the stockholders in Lake Superior Consolidated Iron Mines received in exchange in 1901, $135 par value preferred stock and $135 par value common stock in the United States Steel Corporation. Based on the market quotations of United States Steel Corporation stock immediately after April 1, 1901, each share of Lake Superior Consolidated Iron Mines stock was worth $188, and the total shares were worth more than $55,000,000. Since this is so, and since the bureau had used the value claimed by the taxpayer for purposes other than invested capital in 1913, the taxpayer's proposal to value this stock at $54,919,713 was accepted.

With reference to the securities of the Carnegie Co. acquired at organization April 1, 1901, consisting of $159,450,000 par value of bonds and $160,000,000 par value of stock (common), Andrew Carnegie owned 60 per cent of the latter, and there were practically no sales to establish a market value. The Carnegie Co. bonds were being dealt in at $105. For his stock, of par value $96,000,000, he received United States Steel Corporation bonds of par value of $144,000,000, which were callable at $115. Based upon the ratio of par values, the Carnegie Co. stock has been valued at $150 per share. The bonds of the two corporations were exchanged on a par basis. One of the conditions imposed by Carnegie upon his relinquishment of control was that the minority (40 per cent) stockholders should receive for each share of their stock, par $100, common stock of a par value of $150 and preferred stock also of a par value of $150 in the United States Steel Corporation. Based upon average market quotations of United States Steel Corporation stock for the first year after April 1, 1901, each share of Carnegie Co. stock was worth about $208. The taxpayer's proposal was to value the Carnegie Co.'s stock at $173, which figure is the weighted average obtained by applying $150 to Mr. Carnegie's 60 per cent interest and applying $208 to the 40 per cent minority interest. The value of $150 per share was finally agreed upon for 1917, based upon the conservative value of $150 fixed as the basis of exchange in the case of Carnegie's own stock when he was a willing seller. This reduced the additional value claimed by the taxpayer for this stock from $116,800,000 to $80,000,000 and establishes an average value of $50 per share for United States Steel Corporation stock issued therefor, whereas such United States Steel Corporation preferred was being sold at about $94.50 and common at about $44 per share after April 1, 1901.

There was a claim made for 1917, as well as for 1918 and later years, that there should be included in invested capital an amount of $7,972,500, representing the excess of the alleged cash value of Carnegie Co. bonds over the par value of the United States Steel Corporation bonds, which were exchanged upon a par basis. The taxpayer's claim has been disallowed, whether as paid-in surplus when not based on stock issued, as a capitalized bargain, or as bond premium.

For the purpose of making a comparison it might be here stated that (after making certain other adjustments which will be discussed subsequently) $487,429,362 was the amount finally settled upon as the 1901 value of the stocks of the 13 companies for which approximately 8,890,000 shares of United States Steel Corporation stock were issued, but not including Bessemer Steamship Co. stock nor Mr. Carnegie's 60 per cent interest in the Carnegie Co., which were exchanged for bonds. This gives the United States Steel Corporation stock so issued an average value of $54.83 per share for invested capital purposes, the remaining $45.17 between that and par being considered "water" and as such excluded from invested capital. This does not include some 1,295,000 shares issued to the syndicate for $25,000,000 in cash, plus their services. For this issue only the $25,000,000 in cash has been allowed in invesfed capital; nothing was allowed for the services. In other words, for each share so issued about $19.30 was allowed in invested capital and the remaining $81.70 was excluded. In all, about 10,185,000 shares of United States Steel Corporation stock were issued, for each of which only $50.50 was allowed in invested capital, the remaining $49.50 being excluded. This compares very favorably with the price of $50 per share established in the Carnegie transaction. Stated in still another manner, it may be said that the allowance amounted to the same thing as if the preferred stock had been included in invested capital at par and the common had been included at $0.70 per share, the remaining $99.30 being "water."

Aside from such questions of valuation of assets above discussed, there must be considered the fundamental basis of determining invested capital when corporations "make a consolidated return of net income and invested capital" and the "tax is assessed upon the basis of a consolidated return," within the provisions of section 240 of the revenue act of 1918. Owing to lack of specific instructions in the statute itself, a number of proposed theories as to the proper method of fixing consolidated invested capital have arisen, but none has yet attained the support or finality of a comprehensive decision by the United States Supreme Court. The report on the 1917 profits tax of the United States Steel Corporation, discussed the so-called "legal theory" of consolidated returns and the "accountant's theory" of the same, quoting from the board's views expressed in the cases of Gould Coupler Co. (5 B. T. A. 499, 513, 515, 516, 517); Farmers Deposit National Bank, etc. (5 B. T. A. 520, 526, 527), not acquiesced in; and H. S. Crocker Co. (5 B. T. A. 537, 541), not acquiesced in. The board, in the first case, stated that by "legal theory" of consolidation is meant the view that "consolidation" is a matter of procedure, and consolidated capital and net income should be found by adding the separate amounts applicable to each of the affiliated corporations, whereas the accountant's or economic unit theory would determine consolidated income and capital by eliminating all intercompany "transactions and relationships," thus obtaining a balance sheet and profit and loss statement showing the situation as though it were a single business. The board took the view that the legal theory did not accomplish the results desired by Congress, including the circumvention of such intercompany dealings and practices as would understate taxable net income or inflate invested capital, but, while not accepting the accountant's theory unqualifiedly, held that the computation of the tax as a unit required the determination of "a single composite invested capital for the group from which duplications and intercompany obligations would have been eliminated," and the determination of a consolidated net income after elimination of all intercompany losses, profits, or other transactions affecting income.

In the Farmers Deposit National Bank case, supra, the board held that in a consolidated return the identities of the affiliated companies are overridden and merged and welded together just as effectively as though they existed under a single charter; and that the separate existences ceased and became fused into an economic unit having the attributes of a single taxpayer. In the H. S. Crocker Co. case, supra, the board said that in a consolidated return corporate lines should be disregarded, and further stated that under the affiliation provisions of the statute the acquisition by one company of the stock of another, thereby creating affiliation, creates no additional investment in the affiliated group. So it was ruled also in the case of Burke Electric Co. (5 B. T. A. 553).

Since the United States Steel Corporation acquired as at April 1, 1901, the stocks of corporations which had previously acquired the stocks of other corporations, so that the stocks of over 100 corporations came into the newly formed parent company, directly or indirectly, the consolidated invested capital of the group, according to the taxpayer's contention, would represent the sum of the invested capitals of all the members of the group, separately determined, and there would be no allowance for duplication or so-called pyramiding of capitals. This contention is made in the petition to the Court of Claims for 1918.

Section 240 of the revenue act of 1918, providing for consolidated returns of net income and invested capital, stipulated that such returns should be filed "under regulations to be prescribed by the commissioner with the approval of the Secretary." This act was approved on February 24, 1919, and prior thereto departmental regulations relative to consolidated returns for 1917 had been promulgated. (Arts. 77 and 78, Regulations 41, approved early in 1918, and T. D. 2662, approved March 6, 1918.) Paragraph F of Treasury Decision 2662 ruled that assets of subsidiary corporations should be valued at the dates when acquired by the subsidiaries and not as of the date when their stock was acquired by the parent or controlling corporation, but after passage of the 1918 law this paragraph was superseded or amended by Treasury Decision 2901, approved July 29, 1919, so as to prescribe that the cash paid for the subsidiary's stock should fix the value "of the property acquired," and where a subsidiary corporation's stock was paid in for the stock in the parent company, the amount of capital to be included in the consolidated capital, in respect to the subsidiary, was to be computed in the same manner as if the latter's net tangible assets and the intangible assets had been acquired instead of its (subsidiary) stock. This general rule then first appeared in Regulations 45, the first edition of which was approved on April 16, 1919, as Treasury Decision 2831. Notwithstanding that section 325 (a) of the revenue act of 1918 expressly provided that "tangible property," as used in the act meant stocks, bonds, notes, etc., article 868 of those regulations, which was later followed in principle by Treasury Decision 2901, provided that where a subsidiary's stock was paid in to another corporation for the latter's own stock, so that they became affiliated, the consolidated

invested capital should be computed in respect of the subsidiary company acquired, in the same manner as if the net tangible assets and the intangible assets had been acquired instead of the subsidiary stock.

These regulations were being given full force and effect by the bureau when section 1331 of the revenue act of 1921, approved November 23, 1921, was enacted, and on August 24, 1922, Treasury Decision 3389 was approved, reiterating the above general rule as applicable to 1917 consolidations. Under this presumption of the regulations the bureau was auditing cases and applying the limitation on intangibles acquired for stock (20 per cent by sec. 207 of the 1917 law, and 25 per cent by sec. 326 of the 1918 law) to subsidiaries having previously acquired intangibles, where the subsidiaries' stocks were paid in for stock in their parent companies. Eventually, however, a test came of the merits of that presumption, in connection with the department's own definition of tangible property as including stocks, bonds, etc. (art. 47, Regulations 41), in the case of United Cigar Stores Co. of America *v.* United States (62 Ct. Cls. 134), 5 American Federal Tax Reports, 6028, certiorari dismissed (275 U. S. 576).

In that case corporation A was organized under the laws of the State of New Jersey on May 16, 1901. It was an operating company with a number of subsidiaries and developed and acquired valuable intangibles. Subsequently, on April 23, 1909, corporation B was organized under the laws of New York, and during 1909 it issued 90,000 shares of common stock for the outstanding 9,000 shares of common stock in corporation A (ratio of 10 to 1), and bonds of $3,600,000 par value for corporation A's preferred stock of par value $750,000 and bonds of par value $2,850,000. From September, 1909, to December 31, 1912, when corporation B was dissolved, it continued to own all the capital stock in corporation A. In July, 1912, corporation C was organized under New Jersey laws, and during that year issued common stock of par value of $27,162,000, for all the outstanding common stock in corporation B, then amounting to $9,054,000 (ratio of 3 to 1), and sold preferred stock for cash at par value of $4,527,000, which cash was used to purchase the outstanding bonds of corporation B. The stock in corporation B had a value in 1912 of $300 per share.

On December 31, 1912, corporation B was dissolved, its stock canceled, and its bonds retired. All its assets, consisting of cash, bills receivable and dividends accrued, and stocks and bonds of corporation A, were transferred to corporation C. On January 1, 1914, the common stock in corporation A was worth $27,162,000. From January 1, 1913, to May 31, 1917, corporation C owned all the stock and bonds in corporation A. On March 3, 1917, corporation C had outstanding capital stock of par value of $30,951,493, none of which was owned by any member of the consolidated group that filed a profits-tax return for 1917. The bureau made an audit in which it determined "plaintiff's consolidated invested capital" by applying the 20 per cent limitation on intangibles to the intangibles owned by corporation A in 1912 when B's stock was acquired by corporation C. In other words, the bureau included in consolidated capital intangibles of A to the extent of 20 per cent of C's stock outstanding on March 3, 1917. The additional tax resulting therefrom was in issue in the suit, in which the taxpayer contended that the consolidated invested capital should consist of the par value of C's own stock on March 3, 1917, namely, $30,951,493, plus the consolidated surplus shown on "its consolidated balance sheet" as of January 1, 1917, which contention, of course, ignored the 20 per cent limitation on A's intangibles previously applied by the bureau.

3. The taxpayer contends that the 1918 invested capital of the Neville Iron Mining Co. (a subsidiary) should be increased for the reason that the bureau, in its audit, overstated depletion sustained on iron ore to the end of 1917.

The taxpayer's figure is based on the amount shown by bureau engineer's report, dated January 29, 1924. Subsequent to the time this report was issued it was discovered that some of the schedules contained errors. One of these was the schedule showing depletion sustained on the "Morris and Day and Winifred leases" owned by the Neville Iron Mining Co. This schedule showed the correct investment figures and also the correct ore reserves, but in showing the tonnage shipped it failed to include the tonnage applicable to the Winifred lease. The amount shown in the bureau audit as sustained depletion at December 31, 1917, reflects the correction of this error. The taxpayer's contention is, therefore, denied.

4. The bureau determined that the amount of depreciation sustained on the property of the Northern Liberties Railway Co. was less than the amount provided by the company on its books in arriving at the surplus included in invested capital in the tax return. The taxpayer agrees with this determination, but claims that the commissioner in making the adjustment on account thereof decreased the invested capital reported in the tax return, whereas he should have increased it.

The error complained of appears on page 1443 of bureau letter dated December 28, 1925. In compiling the summary showing the revised invested capital of each company in the consolidation, however, the error was corrected, so that the revised invested capital applicable to the Northern Liberties Railway Co. shown in the summary on page 2514 of this letter is greater than the amount shown on page 1443. Since the consolidated invested capital shown by the summary is the amount which was used in the computation of the tax liability, the correction of the error complained of on page 1443 will have no effect.

5. The taxpayer contends that in computing the invested capital applicable to the Oliver Iron Mining Co. the bureau overstated the amount of depletion sustained on iron ore to the end of 1917.

The taxpayer's figure is based on bureau engineer's report, dated January 29, 1924. From a complete analysis of the accounts it is found that the amount in controversy is composed of two items.

(1) The Queen mine three-sixteenths fee and (2) the Aragon mine lease. As to the first item the taxpayer is in error for the reason that it has considered this three-sixteenths fee interest in the Queen mine as being owned by the Regent Iron Co., whereas in truth and in fact it is owned directly by the Oliver Iron Mining Co. As to the second item the taxpayer is in error for the reason that it failed to take into consideration the correction of the sustained depletion on the Aragon mine lease, which correction was made on the basis of the taxpayer's own schedule submitted to the bureau in 1925.

The taxpayer's contention is therefore denied.

ACCRUED DEPRECIATION, UNIVERSAL PORTLAND CEMENT CO.

During the year 1912 the Universal Portland Cement Co. commenced the construction in Duluth, Minn., of a new plant for the manufacture of Portland cement from slag, and it was not until February, 1916, that the plant actually began operations. In determining depreciation sustained on the property owned by the Universal Portland Cement Co. the bureau merged the expenditures made for the Duluth plant with those made for other plants and applied a rate (modified by activity) which was the composite rate used for all depreciable property of this company for those years.

It is the contention of the taxpayer that no depreciation whatever should have been computed on the Duluth plant during the period of construction or prior to the time the plant was placed in actual operation and cites article 161 of regulations 45 and O. D. 845, supra, in support of its contention. The taxpayer explains that the bureau, as a result of its action, erroneously reduced invested capital by an amount representing the aggregate of the amounts of depreciation computed for the Duluth plant for the years 1912, 1913, 1914, and 1915.

The question here raised is identical in principle with the one raised in the case of the Indiana Steel Co. with respect to its Gary plant for the years 1906, 1907, and 1908, above described. In that case the taxpayer's contention is being allowed inasmuch as the result contended for is consistent with the rulings of the bureau.

It has accordingly been decided in the instant case that no depreciation be computed on the Duluth plant of the Universal Portland Cement Co. for the years 1912, 1913, 1914, and 1915, and that no reduction to invested capital should be made for such assumed depreciation.

Year 1919

Taxes paid, original return		$30,745,606.45
Additional payments:		
1921	$23,123.58	
February, 1928	4,275,276.83	
Total additional payments		4,298,400.41
Total payments		35,044,006.86
Prior overassessment certificates (abated February, 1928)		273,004.63
Proposed refund, principal		4,391,025.70
Total overassessments		4,664,030.33
Interest (approximate)		2,300,000.00
Refund of original tax		365,629.92
Taxpayer's claim in court:		
Principal		13,401,467.40
Interest		7,500,000.00

In February, 1921, the taxpayer made a voluntary payment of $23,123.58, due to elimination of deductions taken for so-called war activities like the Red Cross, etc.

The first travel audit report dated February 12, 1927, recommended an additional assessment of $3,363,828.85, which was not assessed pending completion of the audit of the case. The first bureau audit was in June, 1927, and the revised audit in December, 1927. Based on the revised audit an additional tax was set up of $4,275,276.83, which was assessed and was satisfied by a credit from 1917 overpayment, and, upon a revision of the audit in February, 1928, $273,004.63 was allowed as an abatement.

At no time heretofore did the taxpayer of the Government consider or treat the audit as final. However, the present adjustment is agreed to be a final settlement to be carried out as noted above in the discussion of the year 1918.

Attention will now be given to the more important features involved in the present audit of 1919.

LICENSES OF PATENTS—LORAIN STEEL CO.

This issue has been discussed in detail in the report prepared on the overassessment for 1918, and repetition is not necessary here. Since the license agreement involved was terminated on May 1, 1919, it had a life of only four months in that year.

DEPRECIATION—CARNEGIE STEEL CO. (NEW JERSEY)

During the progress of the audit of the United States Steel Corporation case for the years 1917 and 1918 it became necessary to determine depreciation rates to be applied to the properties of the various companies. With respect to the properties of the manufacturing companies the bureau conceded in nearly every instance that a slightly higher rate should be used in the years 1917 and 1918 than in prior years, due to the abnormal conditions under which the plants were operated. The bureau was convinced that the additional strain placed upon these plants because of excessive production, inefficient labor, and inability to make proper repairs, brought about by the war, justified a slight acceleration in the rate of depreciation.

When the original audit for the years 1919 and 1920 was made the bureau resumed the use of the normal depreciation rates. The taxpayer strongly protested this action, claiming that practically the same conditions existed throughout 1919 and 1920 as in 1917 and 1918, due to strike troubles, even though the actual output was somewhat lower for the same cause.

In view of the matter presented the bureau at first decided to continue the accelerated depreciation rate for 1919 and 1920 for all companies which could show production reasonably close to that of 1917 and 1918. Upon the submission by the taxpayer of figures showing comparative production for the four years the bureau revised the previous audit, allowing the acceleration in rate on all manufacturing companies except Carnegie Steel Co., Lorain Steel Co., Minnesota Steel Co., and American Bridge Co. With respect to these four companies the bureau was of the opinion that the production shown for the years 1919 and 1920 did not warrant the use of the higher rate.

The taxpayer later contended that the bureau was in error in refusing to allow the accelerated rate to the Carnegie Steel Co. and explained that the strike of the steelworkers was much more detrimental to the Carnegie Steel Co. than to other companies.

It is recognized that there is considerable merit to the taxpayer's contentions that the additional depreciation sustained by reason of the strike conditions prevailing in 1919 and 1920 was as great as the additional depreciation sustained in 1917 and 1918 because of the war conditions, notwithstanding slightly lower production in 1919 and 1920.

The bureau is of the opinion that the strike conditions complained of, particularly the steelworkers' strike, did have a serious effect on the company's production for 1919 and 1920, and also added materially to the amount of depreciation the company's plants must have sustained. An examination of the production figures of the four companies on which the accelerated rate was denied, disclosed the fact that the decline in 1919 and 1920 production as compared with that of 1917 and 1918 is much greater in the case of the other three companies than in the case of Carnegie Steel Co. The taxpayer has waived its claim as to accelerated rates on the other three companies.

After taking all of the facts into consideration, the bureau has allowed the company's contention for the year 1919, but not for 1920. The distinction is based largely on the fact that the strike condition in 1920 was less serious than in 1919. The taxpayer, in order to effect a settlement of the case, has conceded the disallowance for 1920.

MARCH 1, 1913, VALUE OF LAND SOLD H. C. FRICK COKE CO.

During 1919 this subsidiary sold certain coal and surface acreage owned by it on March 1, 1913, and reported a taxable profit thereon. In arriving at the taxable gain from this transaction, the bureau is asserted by the taxpayer to have set the March 1, 1913, value at a figure represented to be less than the correct value on that date.

At the time the bureau made its field investigation the company brought to the attention of the auditor who was examining this particular company's books certain information purporting to show that the company in its tax returns had overstated the profits derived from these sales by reason of having used a March 1, 1913, value which was too low. The field auditor accepted the taxpayer's information and adjusted taxable income accordingly. Upon review of the case in Washington, the bureau reversed the field auditor's adjustments on the ground that the evidence submitted was not sufficient to establish the March 1, 1913, values claimed.

The Court of Claims, after pointing out that corporate stocks were tangible property under the bureau's regulations (art. 47, Regulations 41), held that C's stock of $27,162,000 was issued in 1912 in payment for tangible property consisting of capital stock of B, the value of which was conceded to have been equal to the par value of C's stock then issued, and ordered judgment for corporation C in the full amount claimed. Thus the court held in effect that the consolidated invested capital should be based upon the January 1, 1914, cash value of C's assets that had been acquired for its stock in 1912, shown to be $31,689,000, and should consist of C's capital stock of par value $30,951,493 outstanding on March 3, 1917, plus consolidated surplus at January 1, 1917, of $4,933,417.16. Stated abstractly, the court held that where a so-called parent corporation, prior to 1917 acquired the stock of a subsidiary for its own stock, and also prior to 1917 acquired through liquidation of the subsidiary the latter's assets, including the stock of a subsidiary corporation possessing intangibles, the 20 per cent limitation on intangibles acquired through issuance of stock is inapplicable because the intangibles were not in fact acquired for stock. It should also be observed that the court used a valuation at the time of acquisition of the subsidiary stock, and not the invested capital of the subsidiary which would be based on values when acquired by the subsidiary. Certiorari to the United States Supreme Court was dismissed on the initiative of the Government (275 U. S. 576, 48 Sup. Ct. 83).

In the present case the United States Steel Corporation, having issued its stock in 1901 for stock and securities in other corporations, which already were in the position of parent to underlying subsidiaries, claimed the right to include in consolidated invested capital the value in 1901 of the stocks acquired by it in 1901 and without any resulting reduction under the intangible limitation as to any intangibles then owned by the subsidiaries so acquired. This contention was conceded in theory subject to a reduction in the amount of capital for reasons indicated below:

For 1917 the increase to invested capital allowable on account of restoration of the reputed excess of intangible values over the 20 per cent maximum, pursuant to the United Cigar Stores Co. decision, was stated as $69,000,000, but the increase was reduced to about $39,250,000, through an agreement influenced principally by the decision by the Board of Tax Appeals, on June 19, 1928, in the case of Grand Rapids Dry Goods Co. (12 B. T. A. 696). Since the intangible limitation under the 1918 law is 25 per cent, or approximately $43,000,000 greater than the 20 per cent limitation under the 1917 law, the amount of invested capital now allowed is less than the maximum amount allowable under the 1918 act so far as the limitation provisions are concerned.

For purposes of illustration of the principle involved in the board case just cited, a résumé of the facts developed in the decision in that case is here given.

The subsidiary corporation was organized in 1912 with a paid-up capital stock of $60,000, but prior to December 31, 1919, it had paid no dividends, and from January 1, 1919, to August 1, 1919, it had sustained an operating deficit of an undisclosed amount. On August 1, 1919, the parent corporation purchased the stock in the subsidiary from its stockholders for $15,000 cash. The bureau excluded the subsidiary's separate capital of $60,000, and substituted $15,000 therefor, in the consolidated invested capital computation. The Board of Tax Appeals, after citing with approval its prior decisions to the effect that, in determining consolidated invested capital, the corporate entities are to be disregarded, and that therefore the situation is like that of a single corporation purchasing its own stock; held that the cash capital paid in to the subsidiary, $60,000, should be treated as having been returned to the stockholders, to the extent of the $15,000 paid by the parent to the subsidiary's stockholders, thus leaving in consolidated capital $45,000 of the original capital paid in to the subsidiary.

Two members of the board (Messrs. Sternhagen and Marquette) dissented on the ground of insufficient evidence of the correct capital, but were agreed that the bureau had erroneously treated the transaction as if the parent had bought the subsidiary's assets, instead of its stock, for the $15,000. Mr. TRAMMELL seems to have dissented upon the ground that the board's theory was wrong, pointing out the logical consequences, that the invested capital, with respect to the subsidiary acquired, would be in inverse proportion to the true value of the subsidiary's stock. He further expressed the opinion that no liquidation of stock could occur from the purchase by one corporation of the stock of another, even if the two are admittedly affiliated and the purchase be of a minority interest, to this extent recognizing the separate entities. He also stated that if the parent purchased the subsidiary stock, other than out of current earnings, there would be a duplication that should not increase invested capital because the parent's funds were already included in its invested capital. Murdock's dissent also was based on the insufficiency of evidence in the record, but he apparently was of opinion that no additional capital, over that of the parent alone, came in to the consolidation by the purchase of the subsidiary stock by the parent.

The possible effect of application of the rule in the Grand Rapids Dry Goods Co. case upon the determination of consolidated invested capital in the United States Steel Corporation case was considered at some length in the report on the present case covering the year 1917, wherein there were discussed various decisions by the board, such as Regal Shoe Co. (1 B. T. A. 896), acquiesced in; National Bakers' Egg Co. (3 B. T. A. 1205); and Gould Coupler Co., supra, in which cases affiliation did not persist during the taxable years there involved; Middlesex Ice Co. et al. (9 B. T. A. 156), not acquiesced in, where the board indicated that consolidated invested capital should be arrived at by adding the separate capitals of the members of the group, and then eliminating duplicated items or amounts, either of investment or of earned surplus, and refused to sanction the bureau's action in eliminating the earned surplus of a subsidiary at the time its stock was acquired by the parent company, after a finding of fact that such surplus was not reflected in the accounts of the parent; L. S. Donaldson Co. (Inc.) et al. (12 B. T. A. 271), acquiesced in, where the board held that consolidated invested capital should include appreciation of an asset, over cost to the parent, realized when assigned prior to 1917 by the parent to the subsidiary for the latter's stock, the board rec-

ognizing that duplication of the asset value and the cost of the subsidiary stock to the parent should be eliminated, but pointing out that its prior decisions, such as Farmers Deposit National Bank, supra; H. S. Crocker Co., supra.; American La Dentelle (Inc.) (1 B. T. A. 575), acquiesced in; Gould Coupler Co., supra; and Risdon Tool & Machine Co. (5 B. T. A. 530), did not hold that the affiliated group should be treated as a single economic unit, or that such a group should be taken as having the attributes of a single taxpayer prior to the time when consolidated returns were required; Hollingsworth, Turner & Co. (1 B. T. A. 958), acquiesced in, wherein the board expressly approved of article 868 of Regulations 45, but did not set forth sufficient facts to permit of a close scrutiny of the application of the regulation; Burke Electric Co., supra, wherein the facts are not well developed, but the board denied a claim for paid-in surplus where stockholders of a subsidiary sold their stock to the parent for cash at less than its actual value, apparently on the sole ground that the purchase price to the parent did not affect consolidated invested capital; and W. S. Bogle & Co. et al. (5 B. T. A. 541), acquiesced in, where the board (by Mr. Littleton) held that under section 240 of the 1918 law there is no distinction between the two classes of affiliation, usually termed "Class A" and "Class B," in computing the tax or determining the consolidated invested capital.

It was recognized in the report for the year 1917 that the matter of the proper method of determining consolidated invested capital was still unsettled in view of the position taken by the board contrary to the United Cigar Stores Co. decision. Because of the unsettled condition of the issue, the 1917 profits-tax liability was determined through settlement, to avoid the uncertainties of prolonged litigation. The basis of settlement was explained in detail to the Joint Committee on Internal Revenue Taxation, orally and in the report to that committee pursuant to section 710 of the revenue act of 1928.

It was recognized, also, in the report on the year 1917 that a technical application of the Grand Rapids Dry Goods Co. decision by the board would require an analysis of transactions occurring long prior to the taxable year, some of the companies being a century old. This task was obviously impossible of performance in the present case.

Subsequent to the time when the year 1917 was under consideration very little in the way of preceptive and enlightening authority has been established. The board has handed down a few decisions following the theory used in the Grand Rapids Dry Goods Co. decision, supra (e. g., Auto Sales Corporation, 14 B. T. A. 61; Pittsburgh Supply Co., 14 B. T. A. 620; American Bond & Mortgage Co., 15 B. T. A. 264; and Trustees for Ohio & Big Sandy Coal Co., 15 B. T. A. 273), but none of these decisions have been reviewed by the circuit court of appeals. Although the case of the Auto Sales Corporation, supra, is now pending before the circuit court of appeals, it seems that the court's decision will in all probability be confined primarily to issues of fact, as was the board's decision, and that the legal principle involved will not be decided by the higher court. It also seems doubtful if a precedent will be established in the case of Trustees for Ohio & Big Sandy Coal Co. et al., supra, now pending before the circuit court of appeals, due to the peculiar facts in that case.

As was pointed out in the report on the 1917 part of the case, at least four different theories as to consolidated invested capital determination have developed as follows:

A. Treasury departmental regulations, articles 867 and 868, regulations 45 and 62.

B. As held by the Court of Claims in the case of United Cigar Stores Co. of America *v.* United States (62 Ct. Cls. 134, 5 American Federal Tax Reports 6028) certiorari dismissed (275 U. S. 576, 48 Sup. Ct. 83).

C. As held by the Board of Tax Appeals, in the case of Grand Rapids Dry Goods Co. (12 B. T. A. 696).

D. The so-called legal theory, as advanced by attorneys for the taxpayer herein.

These theories will be briefly outlined.

A. The principle of articles 867 and 868, regulations 45 and 62, supra, first appeared in the edition of Regulations 45 approved April 16, 1919, as T. D. 2831. This principle was to treat the acquisition of the subsidiary's stock as if the latter's assets were in fact acquired, thereby also giving effect to changes in value of the subsidiary's assets since their acquisition by it. The statutory 25 per cent limitation was applied in cases where subsidiary stock was acquired for the parent's stock and intangibles were owned by the subsidiary.

B. The Court of Claims held, in the United Cigar Stores Co. of America case, that consolidated capital should include the value of the subsidiary stock at the time acquired by the parent company—in which respect it is in harmony with the bureau regulations above cited—but it held inapplicable the percentage limitation on intangibles of the subsidiary presumptively acquired with stock of the parent. The court looked at the reality of the transaction, i. e., the acquisition of subsidiary stock for stock in the parent, and disregarded the presumption in the bureau regulations that the parent in effect was acquiring the subsidiary's assets.

C. The board's decision in the case of Grand Rapids Dry Goods Co. differs from the two foregoing positions, in that it disregarded the value of the subsidiary's assets at the time when the parent acquired the subsidiary stock, but looked back to the invested capital or acquisition value of the assets of the subsidiary taken by itself. Such a method eliminates any depreciation or appreciation in market value of property acquired or developed by the subsidiary prior to consolidation with the parent. Later board decisions indicate its view of consolidated capital to be the sum of the invested capitals of each member of the group, separately determined, minus so-called duplication representing the acquisition cost to the parent of the subsidiary's stock. However, under the board's theory the reorganizations prior to 1917 would aid the taxpayer because appreciation occurred that would be recognized in 1918 capital both by the board decision (e. g., Regal Shoe Co., 1 B. T. A. 896) (acquiesced in) and bureau ruling (e. g., L. O. 1108, III-1 C. B. 412).

D. The taxpayer's representatives herein have contended for a so-called legal theory whereby consolidated invested capital would consist of the sum of the separately determined invested capitals of each member of the group, without any reduction for duplication of investment, as between subsidiary and parent, but subject to inadmissible adjustment under section 326 (c) of the 1918 act. In the petition to the Court of Claims an invested capital is claimed of $1,915,715,682.25, whereas the amount now allowed is about $1,446,480,787.78.

The present case is adjusted under the theory of the United Cigar Stores Co. of America decision, supra, after making a reasonable allowance for a reduction in capital through the theory of the Grand Rapids Dry Goods Co. decision, supra. The amount of capital so determined on this basis is slightly less than that allowable under the bureau regulations. In other words, the amount of capital now accepted is supported both by the theory of the bureau regulations and that of the United Cigar Stores Co. of America decision, supra, and, under one view, by the Grand Rapids Dry Goods Co. decision, supra. If the case should go to trial and the Court of Claims would strictly apply its own theory, as expressed in the United Cigar Stores Co. of America decision, supra—as it would be expected to do—there seems to be little question but that in adjusting values under that theory the amount of capital as now determined would be very substantially increased.

If the taxpayer's legal theory should be maintained, in litigation, by the Supreme Court, then the capital so allowed would exceed the amount allowable under any of the other three theories, by several hundred million dollars.

Discussions relative to the determination of consolidated invested capital in adjusting the 1917 part of the case may be found in House Document 143, Seventy-first Congress, first session, entitled "Refunds and Credits." This document contains the report of the Joint Committee on Internal Revenue Taxation pursuant to section 710 of the revenue act of 1928 and the report of the staff of the joint committee to the committee. On page 60 of this report appears a letter from Hon. W. C. Hawley, chairman, to the commissioner, which reads as follows:

DECEMBER 19, 1928.

Hon. DAVID H. BLAIR,
Commissioner of Internal Revenue,
Treasury Department, Washington, D. C.

MY DEAR MR. COMMISSIONER: The Joint Committee on Internal Revenue Taxation at two sessions held on December 17, 1928, considered some of the problems involved in arriving at the tax liability of the United States Steel Corporation for the year 1917, with special reference to the computation of the consolidated invested capital.

After considering the statements of your representatives, the preponderant opinion of the members of the committee was that the committee should not interfere with your bureau in the determination made and the refund proposed.

The staff of the committee is still engaged in making certain mathematical checks of this case. If any questions arise in connection with such checks, they will be taken up in the usual way before the expiration of the 30-day period.

Very truly yours,

W. C. HAWLEY, *Chairman.*

On December 19, 1928, Mr. Parker addressed a letter to the bureau in which he made inquiry (1) as to the procedure the bureau expected to follow in arriving at consolidated invested capital of the United States Steel Corporation and subsidiary companies for the years 1918 to 1920, inclusive, and (2) as to the possibility and feasibility of taking a test case through the courts which would develop the fundamental theory of consolidated invested capital. The answer made was to the effect that in view of the comparatively few profits-tax cases remaining in the bureau which would be affected; the impracticability of withholding action on such cases until the outcome of a test case; also in view of the difficulty of prosecuting a case which would bring out all of the points involved in all cases, the bureau believed that it had adopted the best policy in deciding to settle this type of case and that it planned to pursue this policy in adjusting the United States Steel Corporation case for the years 1918 to 1920, inclusive.

The amount of capital finally adopted by the bureau represents an administrative settlement of an exceptionally difficult situation, upon

a basis that is believed to be entirely satisfactory to the Government. The amount is believed to be less than may be expected to be maintained in possible litigation, if the suit be pressed through the courts.

INVESTED CAPITAL, PRIOR DEPRECIATION, INDIANA STEEL CO.

The Indiana Steel Co. was incorporated February 1, 1906, and shortly thereafter commenced construction of its plant at Gary, Ind. Construction continued during 1906, 1907, and 1908, and it was not until November, 1908, that the company actually began any operations whatever, and then only to a very minor extent.

It is the contention of the taxpayer that no depreciation whatever should have been computed on the plant during the period of construction prior to the time the plant was placed in actual operation, and it cites article 161 of regulations 45 and O. D. 845 (4 C. B. 178), in support of its contention. The taxpayer contends that as a result of the bureau's action its invested capital was erroneously reduced by the aggregate of the amounts of depreciation computed for the years 1906, 1907, and 1908.

Article 161 of regulations 45 provides that in computing net income there shall be allowed as a deduction a reasonable allowance for exhaustion, wear and tear, and obsolescence of property used in the trade or business. This regulation provides further that the proper allowance for such depreciation of property used in the trade or business is that amount which should be set aside for the taxable year in accordance with a consistent plan by which the aggregate of such amounts for the useful life of the property in the business will suffice, with the salvage value, at the end of such useful life to provide in place of the property its cost, or its value as of March 1, 1913.

O. D. 845 (supra) defines the term "useful life" to mean the period of time over which an asset may be used for the purpose for which it was acquired. This ruling further states that in the case of a new building the period starts at the time the building is completed and capable of being used, and that a building under construction is not subject to a depreciation allowance for income-tax purposes. (See also footnotes to Schedules A, B, and C, in the board's decision in the case of Planters Nut & Chocolate Co. (7 B. T. A. 173) (acquiesced in).

In view of the fact that the Gary plant did not start operations until November, 1908, and then only to a minor extent, the bureau is of the opinion that no depreciation should have been computed for the years 1906, 1907, and the first 10 months of 1908. Beginning with November 1, 1908, depreciation should be computed at a reduced rate during the period of minimum operations and at the regular rate thereafter.

SO-CALLED MECHANICAL ERRORS IN AUDIT

1. The United States Steel Corporation for many years has conducted a stock-sales plan whereby it sells shares of its own stock upon the installment basis to its employees. In addition to the regular dividends on such stock, a special additional "dividend" is credited annually to each subscription account until the subscription is fully paid for. The stock so subscribed for has been excluded from invested capital until fully paid for, the regular and special "dividends" being treated as additional compensation to the employees and deductible from gross income. In the case of subscriptions entered into in 1916 and later years, these credits have been treated as deductible only in the year of final payment on the stock, because the credits were subject to revocation in the event of cancellation of the subscription, but in the case of subscriptions entered into prior to 1916 the credits to the subscription accounts were irrevocable.

For 1917 the corporation deducted an amount as special compensation on stock subscriptions, but the final credits on various subscriptions in that year amounted to a smaller sum. The difference was disallowed as a deduction for 1917, but was not restored to 1918 invested capital in the prior bureau audits, because the credit for 1917 special compensation was not actually entered on the books until January 10, 1918, while the capital was based upon an analysis of the stock-subscription accounts as shown by the books at December 31, 1917. This being a purely audit error, the correction is conceded.

2. The taxpayer contends that the 1918 invested capital of National Tube Co. (a subsidiary) should be increased by an amount representing the difference between the amount deducted by the said company from its gross income in 1917 on account of its tube-mill furnace rebuilding fund and the amount allowed by the bureau on account thereof.

The tube-mill furnace rebuilding fund is a surplus reserve provided from income to create a fund from which expenditures are made for the purpose of keeping the tube-mill furnaces in proper operating condition. For the years 1909, 1910, 1911, 1912, 1913, and 1918 the company deducted in its income-tax returns the provisions which were charged to income and credited to the reserve on the books, while for the years 1914, 1915, 1916, and 1917 the company deducted in its income-tax returns the expenditures which were charged to the reserve on the books. Treating the account as a surplus reserve, the bureau allowed the expenditures charged thereto as deductions from income in all years. There was no disallowance in 1917 as claimed by the taxpayer. The credit balance shown by the reserve at the beginning of 1917 was included by the taxpayer in 1917 invested capital reported in the tax return, and correctly so, while the credit balance in this account at the beginning of 1918 was erroneously omitted from the invested capital reported for 1918. The bureau in auditing the 1918 tax return failed to correct this error. It is clear, therefore, that invested capital for 1918 should be increased by the amount claimed, not for the reason claimed by the taxpayer but for the reason that it represents the amount of the credit balance in this account at the beginning of 1918.

The only evidence which the taxpayer submitted consisted of several affidavits, each of which is executed by a person who declares that he has been a resident of the county and State wherein the properties are located, for a period anywhere from 50 to 70 years, and that in the opinion of the deponent therein mentioned certain lands are worth certain values as of March 1, 1913, all of which supports the claim made by the taxpayer. The affidavits were dated approximately the 1st of October, 1927.

The taxpayer sought to have the matter reconsidered on the ground that the affidavits are the best evidence available and for that reason should be accepted as establishing the value at issue.

It is believed that an affidavit executed in 1927 expressing an opinion as to the value of an asset as of a date 14 years prior thereto should not be accepted as conclusive without further supporting evidence. The taxpayer's contention has accordingly been denied.

TRACK DONATIONS—RAILROAD SUBSIDIARIES

In the brief filed a request is made for the elimination from gross income of two items representing transfers of spur tracks, grading costs, and the like, to the railroad corporations from industrial concerns along their lines of road, alleged to be gifts and not taxable income. Reliance is had on the board's decision in the case of Great Northern Railway Co. (8 B. T. A. 225), acquiesced in, on this issue.

All the grading referred to above was on the railroad company's right of way, in connection with spur tracks desired by the contributors, as were the tile and fire hydrant contributed by those who desired the installation of such facilities for their own benefit. The record does not show whether the contributions covering grading were in labor, or in cash to cover cost of grading. The tracks graded were owned by the railroad company and were carried in its property account at cost, included in which was the cash or estimated value of the labor contributed, in compliance with Interstate Commerce Commission regulations.

The amount of the said contributions has been included by the bureau in gross income, which action the company protests on the theory that it does not constitute on item of taxable income within the meaning of the sixteenth amendment and the income tax laws.

A similar issue was considered by the bureau in connection with the company's income and profits tax liability for 1918, and in view of the decision of the United States Supreme Court in re Edwards *v.* Cuba Railroad Co. (268 U. S. 628) and the decisions of the United States Board of Tax Appeals, in re Great Northern Railway Co., supra, and other similar cases, it was held, as it is here, that the contributions in question should be excluded from gross income.

MARCH 1, 1913, VALUE OF JONES ISLAND REAL ESTATE—ILLINOIS STEEL CO.

The Illinois Steel Co., in a schedule showing a reconciliation between book income and taxable income, filed with the consolidated income and profits tax return for the year 1919, reported a certain sum as nontaxable income. The item in question represents the excess of the sales price over cost prior to March 1, 1913, of certain parcels of land on Jones Island near Milwaukee, Wis., which land was condemned and acquired by the city of Milwaukee. The company contended in its tax return that the March 1, 1913, value of the property in question was equal to the portion of the sales price received in 1919; hence no taxable gain was derived from the transaction.

The bureau in its travel audit report dated February 12, 1927, denied the taxpayer's contention that the March 1, 1913, value of Jones Island real estate was equal to the sales price received in 1919. The taxpayer having failed to submit sufficient data to enable the travel auditor to establish a March 1, 1913, value the excess of the sales price over cost was added to taxable income for the year 1919.

In the brief since filed the taxpayer asserted error on the part of the bureau in its audit of December 20, 1927, in using a March 1, 1913, value less than sales price. The March 1, 1913, value used by the bureau, in its 60-day letter of December 20, 1927, was the assessed value on that date for purpose of local taxation. The land was adaptable for use as a factory site, coal yard, dock, or wharf, but was taken over by the city of Milwaukee for public purposes.

An issue having thus been raised as to the correct March 1, 1913, value of the land on Jones Island, additional evidence as to this transaction was requested by the bureau. The taxpayer made a further investigation into the matter and considered the applicability of the decision by the Circuit Court of Appeals for the Third Circuit, in the case of Tabor Manufacturing Co. *v.* United States (34 Fed. (2d) 140), reversing the Board of Tax Appeals decision reported in 10 B. T. A. 1197. (It may be noted that the method of treating the appreciation as gradually accrued, which was sanctioned by early departmental rulings cited in Hays *v.* Gauley Mountain Coal Co. (247 U. S. 189, T. D.

2724) was adopted by the circuit court of appeals because of the "entire absence of any competent data that made possible any other fixation," such as comparable sales or evidence of fluctuations in value.)

In the course of the taxpayer's inquiry as to the March 1, 1913, value of the land sold, it developed that while the greater part of the purchase price for such land was not actually paid over to the vendor corporation until 1919, this was due to the pendency of sundry conflicting claims for the proceeds of the sale. The evidence indicates that the damages awarded the taxpayer company were confirmed by the city council; that the moneys in payment thereof were in the hands of the city treasurer and ready to be paid over to the owner; and that the statutory 10-day notice to the board of public works was given, all in 1917, so that it is probable that the title vested by operation of law under the local statute during the year 1917. It is also stated that the taxpayer corporation, in its settlement with the city of Milwaukee, was relieved of payment of property taxes on the land after 1917, the adjustment being based upon the theory that the sale was effected in 1917. (See in this connection sec. 16, Ch. VI of the amended charter of Milwaukee, in ch. 524 of Wisconsin Laws of 1887 (p. 1397), and sec. 13, ch. 297, Wisconsin Laws of 1907. Cf. North Texas Lumber Co. *v.* Commissioner, 30 Fed. (2d) 680.)

In settlement of the issue the taxpayer has consented to have the sale treated as a 1919 transaction, but productive of no taxable income in that year.

DONATIONS

In the brief filed on August 24, 1929, request was made for the right to deduct so-called donations made by the National Tube Co. to the Y. M. C. A., and of $7,500 made by the National Tube Co. to the same association. These donations are like the Y. M. C. A. "donation" described in the report on 1918, and for the reasons therein given, the amounts paid in 1919 have been allowed.

PROFITS FROM STATE LEASES

Four subsidiaries received a large amount of income in 1919 from the operation of leases of mineral lands owned by the State of Minnesota or political subdivisions thereof. The taxpayer has agreed, in order to effect a settlement of the entire case for the year 1919, not to insist upon the claim to exemption of this income, and the exemption has accordingly been denied. This issue is discussed more fully in the report on 1918.

BOND PREMIUM IN INCOME

This issue is the same as was treated in the report on 1918, the same corporations being involved. It is deemed unnecessary to repeat here the basis of the rulings there discussed, which are equally applicable to the later year. For purposes of settlement the taxpayer has yielded on this issue, and to so-called bond premium, representing proportionate parts of the total premium received on issuance of the bonds prior to 1919 has been included in the 1919 taxable income.

UNRELEASED PREMIUM, DULUTH, MISSABE & NORTHERN RAILWAY CO.

As the bonds bought had been issued at a premium in years 1909 to 1914, the bureau added to 1919 income the so-called unreleased or unamortized premium. This issue is the same as was discussed in the report on 1918 and has been disposed of similarly, i. e., contrary to the taxpayer's contention.

TAXES IN INVENTORY—OLIVER IRON MINING CO.

In the taxpayer's brief objection was raised to the bureau's action in adding to the closing inventories of the Oliver Iron Mining Co. an amount described as taxes on real estate levied by various States or their political subdivisions. A similar contention was made for the year 1918, and as the material facts are the same in both years and are governed by the same taxing statute and legal principles, the taxpayer has agreed to a settlement upon the same basis, namely, that such taxes are to be considered a part of the value of the closing 1919 inventories. Inclusion of the amounts of tax in the closing 1918 inventories is, of course, to be retained in the opening 1919 inventories.

INVENTORY—ILLINOIS STEEL CO.

This issue is also like that involved in 1918. It is the taxpayer's position that the same situation prevailed in 1919 as in 1918, and the bureau holds that the issue should be disposed of in the same manner; namely, that the taxpayer's inventories at the close of the year should be accepted and not discarded for inventories set up by the bureau upon the basis of its presumption that the ores on hand at December 31, 1919, were those last received.

CHARTER HIRE, REQUISITIONED SHIPS—UNITED STATES STEEL PRODUCTS CO.

During the year 1919 this subsidiary admittedly realized taxable income from charter hire on certain steamships requisitioned by the Emergency Fleet Corporation for operation in behalf of the United States. The amount of such income was reported in 1919 as subject to tax at 1918 rates under section 301 (c) of the revenue act of 1918. In the letter brief it was contended that income from requisitioned ships should not be treated as income from Government contracts, upon authority of G. C. M. 843, V-2 C. B. 131, the facts in the two cases being alleged to be alike. In the present case a total of nine vessels were requisitioned, all ocean-going freighters and completed prior to requisition. They were operated partly on the bare-boat basis and partly on a time basis. One of these boats was wrecked on April 26, 1918, and another sunk on September 16, 1918, while in the Government service. The period of Government operation extended from October 11, 1917 (for the *Bantu*), to June 26, 1919 (for the *Santa Rosalia*).

In the bureau ruling cited, section 240 (a) of the revenue act of 1918 was involved. Two operating steamships were requisitioned in October, 1917, by the United States Shipping Board, pursuant to its authority delegated it by Executive order of July 11, 1917, under the urgent deficiency act of June 15, 1917. In January, 1918, the steamship owners signed "requisition charters" concerning the operation of the steamships, whereby the owners agreed to accept certain compensation in full satisfaction of any and all claims they might have against the United States arising out of the requisition, and to accept the compensation therein provided as the just compensation required by law. The bureau held that the shipowners, in signing the requisition charters, did not contract with the Government, and therefore the income so received was not income derived from a Government contract, which term was defined in section 1 of the 1918 act. It was held further that the compensation received was not contractual in nature but the liquidation of a claim for its use of the vessels, established by the Constitution and section (e) of the act of June 15, 1917, citing Benedict *v.* United States (271 Fed. 719) and Seaboard Air Line Railway Co. *v.* United States (261 U. S. 299). Under said section (e) of the act of June 15, 1917, it was provided that the Government should make just compensation for ships requisitioned by it, but if the amount allowed by it was unsatisfactory to the shipowner, the latter could receive 75 per cent of the amount allowed and sue for the balance. The ruling (G. C. M. 843) was based further upon the analogy asserted to that part of article 1510 of regulations 45 to the effect that agreements for just compensation of owners of transportation systems, pursuant to the act of March 21, 1918, are not to be regarded as Government contracts. Since the situation in the present case appears to fall within the ruling made in G. C. M. 843, the taxpayer's contention upon this issue has been allowed.

DEPRECIATION BASE REDUCED BY TENTATIVE AMORTIZATION AND INVESTED CAPITAL REDUCED BY TENTATIVE AMORTIZATION

At the time the bureau made its former audit covering the years 1919 and 1920 the final determination of the allowance for amortization of war facilities had not been made. In order to protect the interests of the Government against the running of the statute of limitations (as extended by the waivers then on hand), the bureau increased income reported for each of the years 1919 and 1920 and reduced the invested capital reported for each of these years. These adjustments were made on the theory that the maximum possible deduction for amortization which might eventually be allowed would not exceed a certain amount, and that the total allowance might be deductible from 1918 income.

The taxpayer now requests that these adjustments be reversed and in their place be substituted similar adjustments based on the correct amortization allowance as finally determined.

It is the regular practice of the bureau to make such a correction sua sponte when amortization is finally determined, so that the taxpayer's request is granted.

PATENT DEPRECIATION—AMERICAN STEEL & WIRE CO.

During the year 1918 the American Steel & Wire Co. purchased a patent which expired by limitation in April, 1928. In its 1918 return the company deducted three-fourths of one-tenth of the purchase price on account of the exhaustion of this patent. In 1919 the company, instead of deducting a full year's exhaustion, erroneously deducted the same amount as it had for 1918. The company now requests that an additional deduction be allowed.

The error to which the taxpayer called attention has already been corrected by the bureau. A full year's deduction was allowed on account of the exhaustion of this patent in bureau audit letter dated June 27, 1927 (p. 174); therefore, no further adjustment is necessary.

UNIVERSAL PORTLAND CEMENT CO.

The bureau's action in disallowing a deduction for cost of furniture and fixtures acquired in this year, taken by the taxpayer in lieu of depreciation, is reversed for reasons set out in the 1918 report. Similarly the accrued depreciation charged by the bureau on assets prior to completion has been readjusted as for the year 1918.

OBSOLETENESS—SHARON COKE CO.

During the year 1919 this subsidiary claimed to have abandoned and scrapped its beehive coke plant at Ronco, near Pittsburgh. Operation of these facilities ceased at the close of 1918, but the book entry of the loss claimed was not made until December, 1925, and no deduction was claimed in the 1919 return. Upon field investigation of the claim it was found that although operations ceased in 1918 no actual steps toward abandonment or scrapping of the ovens were taken until after 1920, and there was no evidence of an intention in 1919 to abandon these facilities. While dismantling began in 1922 most of the work was done in 1923. The loss was claimed as a deduction in the tax return for 1925, the year of write off on the books.

Based upon the evidence obtained by field investigation, the deduction claimed for 1919 has been disallowed, and the taxpayer has acquiesced to effect a settlement.

AMORTIZATION

The amount of amortization apportioned to the year 1919 has been applied against the net income from Government contracts, subject to tax at 1918 rates, pursuant to section 301 (c) of the revenue act of 1918. This subject is more fully discussed in the report for 1918.

INVESTED CAPITAL

In general the taxpayer's claims for invested capital adjustment are the same as for 1918, but it has agreed to a settlement upon the same basis as in the preceding two years, subject to incidental changes resulting from prior year adjustments in the audits and minor corrections.

ACCRUED DEPRECIATION—INDIANA STEEL CO.

The issue raised by the taxpayer as to the depreciation claimed by the bureau to have accrued on certain assets of the Indiana Steel Co. prior to completion of their construction, which was used by the bureau to reduce invested capital, has been discussed in the present report on the year 1918. The same disposition of the matter is made for this year as for 1918.

REDUCTION FOR STOCK PURCHASED

The taxpayer (parent) objected to reduction of its capital on account of stock purchased during the taxable year. While contending that current earnings were sufficient to cover such purchases, the taxpayer recognized the contrary view in article 862, regulations 45, as amended by T. D. 4102, VI-2 C. B. 291, which holds that only the excess of the purchase price of stock so bought over the issuing price of the stock may be absorbed by current earnings, and then only in case of purchases after the first 60 days of the taxable year. In other words, capital is reduced by the amount of the purchase price representing the capital previously paid into the corporation for such stock.

In the travel audit report dated February 12, 1927, the bureau made adjustments reducing the 1919 invested capital representing treasury stock purchased within the first 60 days of the year, averaged according to the dates of purchase. In a subsequent 30-day letter the entire amount was restored to capital on the ground that article 862, regulations 45, required a reduction only to the extent that such stock was not purchased out of the current earnings for the year. After this article was amended on November 23, 1927, by T. D. 4102, supra, a subsequent audit letter reduced the invested capital for stock purchased after the first 60 days of the year, as well as during that period.

As the amount of the adjustment, on purchases after March 1, 1919, depends upon the value allowed as capital originally paid in to the company for such stock, if any additional value were allowed as capital paid in for stock at April 1, 1901, over and above the bureau's previous allowance, it would correspondingly increase the amount by which capital would have to be reduced on account of the purchase by the company in 1919.

The taxpayer agreed, in settlement, to abide by the bureau's action, in adhering to the provisions of T. D. 4102 upon this point.

Year 1920

Taxes paid, original return		$27,629,722.53
Additional payments:		
June 20, 1924	$1,396,161.23	
February, 1928	4,170,384.00	
Total additional payments		5,566,545.23
Total payments		33,196,267.76
Prior overassessment certificates (abated February, 1928)		269,087.37
Proposed refund, principal		2,336,240.96
Total overassessments		2,605,328.33
Interest (approximate)		500,000.00
Net additional tax		2,961,216.90
Taxpayer's claim in court:		
Principal		12,827,344.94
Interest		3,300,000.00

An amended return was filed June 20, 1924, to eliminate the deduction of a liability found to have been overstated in the original return. The taxpayer made voluntary payment of additional tax of $1,396,161.23.

The first field agent's report was dated February 12, 1927. The bureau audit of June, 1927, as revised in December, 1927, set up a deficiency of $4,170,384, which was assessed. Numerous changes in net income and invested capital were made in the course of this audit. Part of the additional tax was paid in cash, part was satisfied by credits from 1917 and 1918, and part was abated early in 1928.

The abatement of $269,087.37 in February, 1928, was due to adjustments like those made in the case of the year 1919, at the same time.

As stated above in connection with 1918 and 1919, the audit for this year also was not deemed closed by either the taxpayer or the Government. As in the case of the two preceding years, the present audit is agreed upon as a final settlement, to be given effect by dismissal of the suit on file in the Court of Claims and the execution of a closing agreement under section 606 of the revenue act of 1928.

With the foregoing summary of the adjustments heretofore made, attention will be given to the principal features connected with the pending settlement for 1920.

DEPRECIATION—CARNEGIE STEEL CO.

It is contended that although the production attained in 1920 fell below that of 1917 and 1918, this decrease was due to special conditions in the industry, such as the effects of the so-called outlaw strike of railroad switchmen and other railroad employees, in April, 1920, and the employment of incompetent labor. After consideration of this issue, it was proposed to disallow the additional deduction for depreciation in 1920, and although the taxpayer called attention to the allowance of additional depreciation to other operating subsidiaries, in order to settle the case, it has yielded the issue as to 1920. (See also the accompanying report on 1919.)

TRACK DONATIONS—ELGIN, JOLIET & EASTERN RAILWAY CO.

During 1920 this subsidiary received from certain industrial concerns along its lines, conveyance of side or spur tracks connecting their plants with the railroad main lines. This amount was added to taxable income by the bureau in its preliminary audits, but on authority of the decision in the case of Great Northern Railway Co. (8 B. T. A. 225) (acquiesced in, on this issue), and other cases in accord, the amount in controversy has been excluded from 1920 taxable income.

DONATIONS—NATIONAL TUBE CO. AND THE NATIONAL TUBE CO.

This issue as to the deductibility of these items, is the same in character as in the case of the so-called donations by these two subsidiaries in the preceding two years, and on authority of the rulings cited in the report on 1918, the deductions claimed have been allowed.

PROFITS FROM STATE LEASES

Five corporation subsidiaries received in 1920 large amounts of income from mineral lands owned by the State of Minnesota or its political subdivisions, as in the two preceding years. In order to effect a settlement of the taxes for 1920, as in the case of the prior years, the taxpayer has receded from its contentions on this point, so that such income will remain subject to tax. For a discussion of some of the relevant rulings on the topic, reference is made to the report on 1918.

BOND PREMIUM IN INCOME

Six railroad subsidiaries and one industrial subsidiary issued bonds at a premium prior to 1920, and the bureau has included in income of the latter year an aliquot part of those premiums. The taxpayer has raised objection to this action on authority of the board and court decisions in the case of Old Colony Railroad Co. (6 B. T. A. 1025 (not acquiesced in), and 26 Fed. (2d) 408). After consideration of the issue, in connection with such rulings as are mentioned in the report on 1918, the bureau has adhered to its formal regulations on the matter, and the taxpayer has accepted that result, by way of settlement of the case.

UNRELEASED PREMIUM—DULUTH, MISSABE & NORTHERN RAILWAY CO.

The petition to the Court of Claims asserts error on the part of the bureau in adding to 1920 net income an amount described as unreleased premium on bonds. During 1920 this subsidiary purchased its own bonds, that had been issued in prior years at a premium, for less than the prior issuance price and denies that the difference is income. This issue has been discussed more fully in the report on 1918. The taxpayers contention has been disallowed as in the prior years.

TAXES IN INVENTORY—OLIVER IRON MINING CO.

This issue is like that affecting the two prior years. The legal aspects of the point are the same as in the preceding years, described in the accompanying report on the year 1918. In order to effect a settlement of the entire case, the taxpayer has not insisted upon securing a favorable decision on the issue, and the opening and closing inventories now include a part of the taxes paid in 1919 and 1920, respectively.

UNIVERSAL PORTLAND CEMENT CO.

The bureau's action in disallowing a deduction for cost of furniture and fixtures acquired in this year taken by the taxpayer in lieu of depreciation, is reversed for reasons set out in the 1918 report. Similarly, the accrued depreciation charged by the bureau on assets prior to completion has been readjusted, as was done for the year 1918. This procedure in 1920 is consequent upon the adjustments made for 1918.

RAILROAD SETTLEMENTS WITH DIRECTOR GENERAL

With reference to the settlements made with the Director General of Railroads, four of the affiliated corporations received lump-sum awards from that officer in 1921. The taxpayer included an amount representing the excess of the director general's allowances over the book accruals of the carriers, in its 1921 gross income, but the bureau, in a prior audit restored substantially all of that amount to 1920. The taxpayer has no taxable income in 1921 notwithstanding the inclusion of this income in that year. The items allowed by the director general were based on undermaintenance of roads and equipment during Federal control, compensatiton for materials and supplies taken over but

not restored by the director general, and rental interest on additions and betterments. Careful consideration was given to the taxpayer's contentions and to relevant board and court decisions, and in settlement of the case, of the total amount included by the taxpayer in its 1921 return more than half has been restored to 1920 income and subjected to tax.

MARCH 1, 1913, VALUE OF LAND SOLD H. C. FRICK COKE CO.

During the year 1920 the H. C. Frick Coke Co. sold certain coal and surface lands and reported a taxable profit thereon. The situation in 1920 is like that for 1919, and reference is made to the report on the latter year, for reasons for denial of the taxpayer's contentions as to the March 1, 1913, value of the properties sold.

INVENTORY VALUATIONS AT DECEMBER 31, 1920

Although the only questions raised by the taxpayer with respect to inventories affected the valuations at December 31, 1918, the bureau made a further check of the closing inventories for 1919 and 1920, in order to discover any errors that might have occurred in the valuations previously used in the handling of the case.

The bureau made no change whatever in any of the figures used by the taxpayer in valuing the December 31, 1919, inventory, for two reasons: (1) Market prices at December 31, 1919, generally speaking, were lower than cost, and (2) any disallowance of market write-downs or other changes that the bureau might make in the December 31, 1919, inventory valuations would have no appreciable effect on tax liability since the tax rates applicable to the United States Steel Corporation are the same for both 1919 and 1920.

With respect to the December 31, 1920, inventory valuations, however, the bureau examined each company on which the question of a write-down from cost to market had been raised at any time. In all, 13 companies had revised parts of their inventories downward. The bureau in its prior audit of the case disallowed parts of write-downs on 9 of the 13 companies. The entire disallowance was on stores, supplies, refractories, short-life equipment, etc., which items are held not subject to the rules for valuing inventories, but are deferred charges which must be carried at cost until used. (Burroughs Adding Machine Co., 9 B. T. A. 938.)

After an examination of the write-downs on the 13 companies it is found that there were 3 whose adjustments of stores and supplies to market prices the bureau had previously failed to disallow. Also, there were two companies (National Tube Co. and American Sheet & Tin Plate Co.) whose adjustments on certain short-life equipment and supply items had been previously overlooked. It was therefore decided that there should be further disallowances of the December 31, 1920, reductions in inventory to correct these errors.

AMORTIZATION

In settlement of the case, as shown in the concurrent report of the year 1918, it has been agreed that the amortization should be applied against the net income from Government contracts, subject to tax at 1918 rates, pursuant to section 301 (c) of the revenue act of 1918. In accordance with such settlement a small amount of amortization has been apportioned to the year 1920.

INVESTED CAPITAL

The invested capital for 1920 has been placed upon the same basis as for the preceding years, subject to changes made necessary by current audit revisions of the prior years and by sundry minor corrections. The taxpayer has agreed to this disposition of the matter, in order to accomplish an early closing of the entire case. Certain of the adjustments that have been specially considered are noted below:

ACCRUED DEPRECIATION—INDIANA STEEL CO.

The issue raised by the taxpayer as to the depreciation claimed by the bureau to have accrued on certain assets of the Indiana Steel Co. prior to completion of their construction, which accrual was used by the prior audits to reduce invested capital, has been discussed in the concurrent report on the year 1918. Disposition of the matter is made for this year in harmony with the adjustment made for 1918.

DEPRECIATION BASE REDUCED BY TENTATIVE AMORTIZATION AND INVESTED CAPITAL REDUCED BY TENTATIVE AMORTIZATION

At the time the bureau made its former audits covering the years 1919 and 1920 the final determination of the allowance for amortization of war facilities had not been made. In order to protect the interests of the Government against the running of the statute of limitations (as extended by the waivers then on hand) the bureau increased income reported, for each of the years 1919 and 1920, and reduced the invested capital reported for each of these years. These adjustments were made on the theory that the maximum possible deduction for amortization which might eventually be allowed would not exceed a certain sum, and that the total allowance might be deductible from 1918 income. The decrease in invested capital is a net figure and represents the difference between the estimated maximum possible 1918 amortization allowance and depreciation for 1918 on estimated amortizable cost.

The taxpayer now requests that these adjustments be reversed and in their place be substituted similar adjustments based on the correct amortization allowance as finally determined.

It is the regular practice of the bureau to make such a correction sua sponte when amortization is finally determined, so that the taxpayer's request is granted.

REDUCTION FOR STOCK PURCHASED

The taxpayer objected to the bureau's action in reducing invested capital on account of purchases of its own stock during the year, notwithstanding that the current earnings, at dates of purchases, exceeded the purchase price. In the travel audit report of February 12, 1917, the bureau reduced invested capital by the amount of treasury stock purchased during the first 60 days of 1920, averaged from the respective dates of purchase. In a subsequent audit letter the bureau restored a part of the former reduction, on the ground that under the provisions of article 862, regulations 45, a reduction was required only to the extent that such stock was not purchased out of current earnings for 1920.

Upon amendment of article 862, in T. D. 4102, VI-2, C. B. 291, dated November 23, 1927, the bureau 60-day letter of December 20, 1927, reduced 1920 capital because information was not then available showing the dates and amounts of stock purchases after February 29, 1920, and the adjustment was confined to stock purchased before that date.

Since the revised regulation is still in force, the bureau has adhered to its instructions, and the taxpayer has yielded in order to obtain an early settlement of the whole case. It may be observed that if capital were in any wise increased through allowance of additional value for assets acquired with stock at April 1, 1901, over the bureau's prior allowance, the reduction to the capital on account of this item would be correspondingly increased.

SUMMARY

In order to effect a settlement of the entire case the taxpayer has conceded numerous items which have been previously claimed before the department. For example, one refund claim for 1919 contains some 10 pages of items claimed as proper grounds for tax paid for that year. The changes claimed in net income are some 57 in number and the changes claimed in invested capital are some 95 in number.

Some of the numerous concessions made by the taxpayer may be mentioned, as follows: Inclusion in income for all three years of aliquot parts of premiums on bonds paid prior to these taxable years; inclusion of income from operation of leases from a State or political subdivision thereof; inclusion in inventories of Oliver Iron Mining Co. of taxes paid on properties each year; concessions with respect to the basis for adjustments of inventories of the American Steel & Wire Co.; inclusion in income of gain on sale of lands by H. C. Frick Coke Co.; a number of concessions with respect to amortization of war facilities; withdrawal of claim for additional depreciation on assets of Carnegie Steel Co.; and such other items as so-called donations to hospitals and welfare agencies.

Additional considerations in support of the settlement are as follows:

(a) If settlement out of court is not effected, substantial concessions made by the taxpayer will be withdrawn.

(b) The taxpayer may be expected to raise additional issues, with considerable probability of success in reducing the tax now computed.

(c) Litigation in court would involve great delay and expense to both sides, regardless of the outcome.

(d) Overassessment being admitted of material amounts, interest would accrue thereon at the rate of 6 per cent per annum during litigation.

(e) Until the amortization deduction has been determined, later years can not be closed upon a satisfactory basis, and statutes of limitation may toll in the meantime, with interest accumulating on any overpayments.

After an extensive investigation of this case, with its numerous features and the impressive size of the various items involved, it is believed that the settlement effected is an exceptionally favorable one, from the standpoint of the Government's interests.

Respectfully,

ELLSWORTH C. ALVORD,
Special Assistant to the Secretary of the Treasury.

Hon. WESLEY L. JONES,
Chairman Committee on Appropriations,
United States Senate.

During the course of Mr. HAWLEY's remarks the following colloquies occurred:

Mr. GARNER. Will the gentleman yield?

Mr. HAWLEY. Yes; I yield.

Mr. GARNER. The gentleman concedes, however, that in 1917 they moved to affirm and indorse the settlement made by the Treasury? That is correct, is it not?

Mr. HAWLEY. They voted not to disturb the settlement.

Mr. GARNER. No. I asked the gentleman if the vote was not made that they indorse the settlement made by the Treasury Department?

Mr. HAWLEY. Well, whatever language was used, that was the effect.

Mr. GARNER. And the vote failed to carry?

Mr. HAWLEY. Yes. There was 4 to 4 vote. One gentleman declined to vote and one gentleman was absent.

Mr. GARNER. In this recent arrangement the gentleman from Oregon, the Chairman [Mr. HAWLEY] was the only Republican there at the time the settlement was concluded?

Mr. HAWLEY. Yes.

Mr. GARNER. And the gentleman had to make a motion to himself and second the motion and then agree to it?

Mr. HAWLEY. I did not make a motion. I did not second it. I asked what the committee would do, and then I said that the expression of opinion of five members not to disturb the settlement having been made, the chairman would write a letter to the Treasurer, which I did, reading:

I am to say that the committee will not disturb this settlement.

Mr. GARNER. May I ask the gentleman if we could have had a vote of those present that day, and the gentleman from Texas had made a motion not to concur in the settlement, we would have outvoted you, would we not?

Mr. HAWLEY. If there had been a motion made to disturb the settlement, I think that would have been of sufficient importance to have adjourned the meeting until all the Members were present.

Mr. GARNER. How could the gentleman adjourn the meeting when there were two to one against adjournment?

Mr. HAWLEY. But, three present would not constitute a quorum unless proxies were counted.

Mr. GARNER. But, we could still refuse to adjourn. Just because there is not a quorum present does not authorize you to adjourn.

Mr. HAWLEY. I should have said we would have continued the meeting until the other Members or a quorum were present. I do not think it makes any difference whether they were present there if five Members said they would not disturb the settlement. Five is a majority of nine. That was the determination, no matter what procedure obtained. This question of whether they expressed themselves by one method or the other, when they had expressed themselves plainly and positively, is not material as an issue.

Mr. COLLIER. Will the gentleman yield?

Mr. HAWLEY. I yield.

Mr. COLLIER. The gentleman from Texas [Mr. GARNER] has tried to ridicule the meeting that was held, and I want to say in behalf of the committee and in behalf of the chairman, that we had ample precedent for that meeting. If any of you gentleman will listen at 7 o'clock any night, you will find that in the meetings of the Fresh Air Taxicab Co. exactly the same procedure is adopted. "The meeting is called to order. All in favor say aye. Motion carried, and meeting adjourned," and Mr. GARNER and I walk out wagging our heads and muttering to ourselves, "We are regusted." [Laughter.]

Mr. GARNER. Whoever got that up for you has gotten it up wrong. I do not know who it was, but you should correct him.

Mr. HAWLEY. Will the gentleman proceed with his question, if he has one?

Mr. GARNER. If the gentleman will recall, the reason the tie occurred was because there are four Democrats and six Republicans on the joint committee. Is not that correct?

Mr. HAWLEY. Yes.

Mr. GARNER. And the four Democrats voted against confirming the Senate settlement, and Senator REED declined to vote for it. That is the record of the vote, and as a result it stood 5 and 5, and the five "me-too," Senators and Congressmen on that committee, carrying out the wish of the Treasury Department, voted to confirm what the Treasury did, but the four Democrats voted against it and Senator REED declined to vote affirmatively to approve it.

Mr. HAWLEY. Does the gentleman from Texas say that a Senator did not challenge him to make a certain motion?

Mr. GARNER. Oh, certainly, because he wanted the record to show that the vote failed because it did not get a majority; it only got 5 and 5, and therefore it would not have been lost.

Mr. BACHARACH. If the gentleman will permit, I just want to point out to the gentleman from Texas that Senator REED did not vote for the approval of it because at one time he had been connected with this particular corporation as its attorney, but he did not say it was not a fair and equitable settlement.

Mr. GARNER. But he did decline to approve it by an affirmative vote.

Mr. HAWLEY. He asked to be excused from voting because of his former connection with this company as attorney.

Mr. GARNER. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. GARNER. At the conclusion of the hearing, did not the gentleman from Oregon, the chairman, ask me what I thought ought to be done in the premises, and did I not say then that I thought it should be referred to the court for a final decision?

Mr. HAWLEY. The statement I made was that the gentleman did not make a motion to that effect.

Mr. GARNER. I could not, because the gentleman announced he had five proxies and that he wanted to confirm it. Now, what would have been the idea of my making such a motion and Mr. COLLIER and myself voting for it, when the chairman had announced he had these proxies. However, did I not state to the gentleman, to the experts, and to the Assistant Secretary of the Treasury that if I had my way in this case I would refer it to the courts for a final decision.

Mr. HAWLEY. The gentleman had an opportunity of presenting that directly to the committee and having it determined by a vote.

Mr. GARNER. But did I not make that statement?

Mr. HAWLEY. Oh, the gentleman makes many statements he does not carry into effect.

Mr. GARNER. Did I not make the statement that if I had my way I would refer it to the courts?

Mr. HAWLEY. Then why did not the gentleman propose a motion?

Mr. GARNER. The gentleman will not answer "yes" or "no."

Mr. HAWLEY. I said the gentleman makes many statements. He made that statement, and he makes many others that he does not carry into effect, as I am going to show later.

Mr. GARNER. I can not carry them into effect because I can not control a majority of the committee.

Before the gentleman proceeds further, will he not tell the circumstances under which the Baldwin Locomotive Co. was allowed a refund for 1912 and intervening years?

Now, out of the thousands and thousands of corporations in the United States that come within the provisions of that law it appears from the record so far that only one could take advantage of that, and that happens to be in Pennsylvania.

Mr. HAWLEY. That question has not been brought to my attention in that form and I have no information further than I have here.

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

Mr. HAWLEY. Yes.

Mr. GARNER. Will the gentleman tell me where he got his information about the total amount of taxation paid by Mr. Rockefeller?

Mr. HAWLEY. It was furnished to me by the staff.

Mr. GARNER. He is the only large taxpayer about whom we have information as to just how many Buffalo nickels he paid for that year?

Mr. HAWLEY. That I have not investigated and it has not come before the committee as yet.

I plead with the gentleman from Texas, I implore him to go to these two rooms of the Treasury that for years have been yawning and longing for his distinguished and companionable society; that he go down there and look at the books. Why have another committee appointed when there is a committee that already has as much power as any other committee would have and one of which he is a member.

The point I am urging is that twice on the floor of this House the amiable and enthusiastic gentleman from Texas, who sometimes in his enthusiasm breaks loose from his anchor, has talked about lack of information on his part, and yet the Treasury Department, in which all the information is to be found, is open to him, together with assistance of a staff of experts, the chief of which aided Senator COUZENS in his report and wrote the report that Couzens committee adopted. The chief of staff is ready to accompany the gentleman from Texas and help him discover all the questions involved in these matters upon which we have to act. This is what I can not understand, and I do not think the country can understand, why complaint should be made on the floor of this House when the complainant should apply the complaint to himself.

Mr. TREADWAY. Will the gentleman yield there?

Mr. HAWLEY. Yes.

Mr. TREADWAY. Would the gentleman give us some idea as to the length of time that would be required of any congressional committee to investigate the returns that are on file in the two rooms of the Treasury that he speaks of?

Mr. HAWLEY. The two rooms are of good size and are lined with filing cases, with shelves around the walls, and with tables on which the papers are laid. The books for the amortization alone, each about 24 inches long, 14 inches high, and 5 inches thick, consist of 30 volumes; this is on just the one

item of amortization, which is not the largest item. The invested capital, going back over a period of 60 years in the case of many of these corporations, is a large item also. The gentleman from Massachusetts and others can guess about how long it would take some one to go through this labyrinth without a guide; but we have a guide. We have a guide who has been over all these books, who has examined them, who has made a well-digested report upon these refunds, who has consulted the Treasury on every disputed point. I urge, I plead, oh, I would do almost any extraordinary thing to get the gentleman from Texas to go down there and relieve himself of the burden of lack of knowledge under which he is suffering. [Applause.] If one guide is not enough, I will get the gentleman several.

FIVE-DAY WEEK FOR UNITED STATES WORKERS

Mr. MEAD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the subject of the 5-day week.

The SPEAKER pro tempore (Mr. LUCE). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MEAD. Mr. Speaker, we are experiencing another unemployment crisis even more serious than that of 1921 and 1922 and yet not a single constructive effort has been accomplished to cope with it. We are as unprepared to-day as we were in 1921 and 1922 when Mr. Hoover, then Secretary of Commerce, was chairman of the President's conference on unemployment. At that time Mr. Hoover said:

> There is no economic failure as terrible in its import as that of a country possessing a surplus of every necessity of life in which numbers, willing and anxious to work, are deprived of these necessities. It simply can not be if our moral and economic system is to survive. * * *
>
> What our people wish is the opportunity to earn their daily bread, and surely in a country with its warehouses bursting with surpluses of food, of clothing, with its mines capable of indefinite production of fuel, with sufficient housing for comfort and health, we possess the intelligence to find solution. Without it our whole system is open to serious charges of failure.

The one effort advanced by the President to stimulate construction has proven ineffective because it was launched after the depression was upon the country. To be effective such an effort must be based on long-range planning as suggested in a measure introduced by Senator WAGNER and several Members of the House.

When consumption lags behind production, as is the case at present, the power of the masses to consume must be increased. In other words, wages, the money equivalent of power, must be increased. Increasing salaries of Federal employees and reducing their hours of service is the example the Federal Government should set for private employers to follow. The increased productivity of the workers in public and private enterprise justifies substantial salary increases.

Thirty years ago private business began to give its employees Saturday half holidays, and yet to-day we find the majority of Government employees working six days a week. Bills now pending in Congress granting postal workers Saturday half holidays are vigorously opposed by the administration as being in conflict with the President's program of economy. Instead of being a laggard, the Federal Government should lead the way and set the example for private employers. This could be done by granting our workers both in the District of Columbia and throughout the United States a 5-day week without any reduction in the present scale of wages. Ford, Raskob, Edison, Irving Fisher, Miss Frances Perkins, and other authorities have advocated the 5-day week. Approximately 1,000,000 workers in the United States enjoy two days of rest each week. And this number is constantly increasing.

The unemployment problem is the most serious question of the day. Unless it is intelligently settled, our political and economic system can not survive. With industry geared to furnish the Nation's needs in 8 months, what are we to do with the workers who must live 12 months in every year? Issuing optimistic statements, passing a tariff unfair to the farmer, and increasing tremendously the cost of living will not correct the evil. Passing a public building bill will increase activity in the building trades, but it will not give a worker employment in the textile mills, on the railroads, or in our foundries, who has been supplanted by labor-saving devices.

Shorten the hours, raise the wages, and give the worker his share of the fruits of the machine age in which we live—and do it now. Pass the bills now pending in Congress providing for long-range planning of public work, increasing the scope of the Bureau of Labor Statistics, and creating a national system of employment exchanges; and be prepared for the future. The Kendall bill granting Saturday half-holidays to postal workers should become a law. It is either this program now or doles later. Starvation, grief, and misery are as hard to endure in a republic as in a monarchy or soviet state. Patriotism and poverty are seldom friends. Let us answer the so-called communists by intelligently and sympathetically dealing with the problem rather than by beating them with clubs. Either we solve the problem now or it will be given to others to solve for us. Work, not charity, is what the masses now unemployed want and to aid them in securing work is an all-important function of government.

REGULATION OF MOTOR-BUS CARRIERS

Mr. PARKER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 10288) to regulate the transportation of persons in interstate and foreign commerce by motor carriers operating on the public highways.

The question was taken; and on a division (demanded by Mr. RANKIN) there were—ayes 110, noes 3.

Mr. RANKIN. Mr. Speaker, I object to the vote on the ground that there is no quorum present, and I make the point of order that there is no quorum present.

The SPEAKER. The Chair will count. [After counting.] Two hundred and thirty-five Members present, a quorum.

So the motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 10288, with Mr. MICHENER in the chair.

The Clerk reported the title of the bill.

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

Mr. HASTINGS. Mr. Chairman, I have an amendment pending at the desk.

The CHAIRMAN. The Chair is advised that the gentleman from Oklahoma [Mr. HASTINGS] has presented an amendment, which has been read but which has not been offered. It is therefore not pending.

Mr. HASTINGS. Mr. Chairman, it was offered and was pending, and the Chair stated that the amendment would be pending.

The CHAIRMAN. The present occupant of the chair is informed that the gentleman from Oklahoma offered an amendment as a substitute for the amendment offered by the gentleman from Michigan [Mr. MAPES]; that a point of order was made to the substitute as offered by the gentleman from Oklahoma, and that the point of order was sustained.

Mr. HASTINGS. Then the Chair is misinformed. There was not any point of order made to it and no point of order was sustained. The amendment is still pending.

The CHAIRMAN. The present occupant of the chair was not in the chair when the committee rose, but is informed by the authorities who have charge of the record that the Chair stated the record as it appears.

Mr. HASTINGS. Mr. Chairman, I do not want to be contentious about it, but the Chair is misinformed. The present occupant of the chair was not in the chair at the time. There was no point of order made to the amendment and sustained. I said then that the motion would be withheld, and the then occupant of the chair said it would be pending, and the Mapes amendment was then presented and discussed and finally voted on.

Mr. MAPES. Mr. Chairman, my recollection of the situation is exactly as the Chair has stated it. I think a reference to the RECORD will show that the Chair is correct; but the gentleman from Oklahoma will have a chance to offer his amendment later.

Mr. HASTINGS. Let the RECORD be read. The Chair announced that my amendment would be pending, and I said that would be perfectly agreeable; then, that we take up the Mapes amendment.

Mr. MAPES. Mr. Chairman, I made the point of order, and the RECORD will so show. Just as to what transpired after that, I am not so clear.

Mr. BURTNESS. Mr. Chairman, let me suggest that at that time, as I recollect it, the gentleman from Michigan [Mr. MAPES] made the point of order to the amendment offered by the gentleman from Oklahoma [Mr. HASTINGS] as a substitute. It was then agreed that the amendment would not be offered as a substitute, which made it unnecessary to pass upon the point of order, and the gentleman from Oklahoma [Mr. HASTINGS] asked whether the amendment could be read and be considered pending, or something of that sort.

Mr. HASTINGS. And the Chair announced that it would be pending.

Mr. BURTNESS. But not that it was offered in any sense at that time. It was not actually offered, it was sent to the Clerk's desk and considered pending.

The CHAIRMAN. As the Chair understands the situation, the amendment offered by the gentleman from Oklahoma was read and pending, but not offered.

Mr. GREEN. If it was pending, is not the amendment before the House?

The CHAIRMAN. Not necessarily.

Mr. HASTINGS. Mr. Chairman, my understanding is clear that the amendment would be pending, to be taken up immediately on the disposition of the Mapes amendment.

Mr. MAPES. Mr. Chairman, I had no such understanding with the gentleman.

Mr. RAYBURN. Mr. Chairman, let us refer to the RECORD. I read from the RECORD, on page 5342, RECORD of March 14, 1930:

Mr. HASTINGS. Mr. Chairman, I want to offer a substitute, which I send to the desk.

The amendment then offered by Mr. HASTINGS was read by the Clerk. Then, Mr. MAPES said:

Mr. Chairman, I make a point of order that the amendment is not germane.

The CHAIRMAN. The proposed amendment is of a wider scope than the amendment of the gentleman from Michigan, but it might be offered as a separate and independent amendment, in the judgment of the Chair.

Mr. HASTINGS. If that is the view of the Chair, I ask permission to withdraw my amendment.

Mr. HASTINGS. But read further on. The Chairman at that time said:

The amendment may be considered as pending until the amendment offered by the gentleman from Michigan is disposed of.

The CHAIRMAN. The Chair is ready to rule. It appears to the Chair from the RECORD that Mr. HASTINGS said:

If that is the view of the Chair, I ask permission to withdraw my amendment.

Mr. HASTINGS. But permission was not granted.

The CHAIRMAN. The Chair quotes further from the RECORD.

The CHAIRMAN. The amendment may be considered as pending until the amendment offered by the gentleman from Michigan is disposed of.

The Chair, according to the RECORD, never recognized the gentleman from Oklahoma for the purpose of offering an amendment. If that is true, then no amendment was offered at any stage, from the parliamentary view. It was sent to the desk by a Member who had not been recognized for that purpose. If that is the situation, then the Chair would be constrained to hold that the amendment at most would be an amendment lying on the Clerk's desk, to be called up by the gentleman from Oklahoma when he was recognized for that purpose.

Mr. HASTINGS. How does the Chair interpret the last two lines more than halfway down in column 2 on page 5342, where the Chairman said—

The amendment may be considered as pending until the amendment offered by the gentleman from Michigan is disposed of.

Now that was in reply when I asked permission to withdraw the amendment. The Chair said:

The amendment may be considered as pending until the amendment offered by the gentleman from Michigan is disposed of.

The CHAIRMAN. That is what the Chair stated, and when the Chair recognized the gentleman from Oklahoma to offer his amendment it would be in order. The Chair never heard of the amendment. The Chair feels that under the rules the Chair should recognize the gentleman from Michigan to offer the amendment.

Mr. MAPES. Mr. Chairman, I do not want to enter into any controversy with the gentleman from Oklahoma on a question of recognition. I had in mind an amendment in addition to the one that was adopted the other day just before the committee rose. This amendment simply carries out the program of the minority members of the Committee on Interstate and Foreign Commerce, as heretofore announced. I had no desire to contest the right of the gentleman from Oklahoma to recognition. I was simply trying to complete the program of the minority members of the committee.

The CHAIRMAN. The gentleman from Michigan is recognized. The Clerk will report the amendment:

The Clerk read as follows:

Amendment offered by Mr. MAPES: Page 7, line 16, after the word "States" in the amendment previously adopted, insert "and the commission may, in its discretion, when operations of common carriers by motor vehicle conducted or proposed to be conducted involve more than three States."

Mr. MAPES. Mr. Chairman, the minority members of the Committee on Interstate and Foreign Commerce, who thought that the bill as reported by the majority of the committee was too restrictive, so far as the jurisdiction of joint boards is concerned, stated in their views, which are attached to the majority report, that during the consideration of the bill two amendments would be offered one to make it compulsory to refer to joint boards matters involving the operations of busses when not more than three States were concerned, instead of limiting such reference to cases where two States only were involved. That amendment was offered and adopted just before the committee rose on Tuesday. This amendment carries out the further intention of the minority members of the committee and authorizes the Interstate Commerce Commission, in its discretion—that is, if it sees fit to do so—to refer matters arising out of the operation of motor busses, when they involve more than three States, to the joint boards.

Those who concur in these views think the amendment adopted on Tuesday materially improves the bill, and with this amendment they think that the bill is a very desirable piece of legislation and should be enacted into law without material change.

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

Mr. MAPES. Yes.

Mr. MOORE of Virginia. This body has already required that there should be a reference to the joint board when three States are involved. It is confined to boards representing three States. If the joint board finds that that is a satisfactory plan, a workable plan, can there be any reason stated why they should not have discretion as the gentleman proposes?

Mr. MAPES. I can not see any reason why they should not.

Mr. MOORE of Virginia. On the other hand, if they find the plan of the joint boards is unworkable, they need not use that discretion?

Mr. MAPES. That is correct.

There has been something said about uniformity of action with reference to the regulation of these motor busses. The Interstate Commerce Commission in all cases is required to lay down rules and regulations governing the joint boards, and all matters have to be presented to the Interstate Commerce Commission and be referred to the joint boards before the joint boards have any authority to act. It seems to me that the procedure set up is as good as can be suggested, and that there can be no objection to giving the commission this additional power to refer matters to the joint boards where more than three States are involved, if it sees fit to do so.

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

Mr. MAPES. Yes.

Mr. ABERNETHY. If the commission thought it wise, there might be as many as five States represented in a joint board?

Mr. MAPES. Yes.

Mr. RANKIN. Then this amendment does not affect in any way the amendment we previously adopted?

Mr. MAPES. Not at all.

Mr. PARKER. Mr. Chairman, the views of the majority of the committee are very well set out in the report on the bill. The views of the minority apparently appeal to the judgment of the Committee of the Whole; and that being the case, while the majority think it is a mistake to do what is going to be done, yet I move that all debate on this amendment be now closed.

The CHAIRMAN. The gentleman from New York moves that all debate on this amendment be now closed. The question is on agreeing to that motion.

The motion was agreed to.

Mr. HASTINGS. Mr. Chairman, I would like to have the amendment rereported. With the gracious permission of the Chair I ask if the Chair will kindly permit the amendment to be rereported?

The CHAIRMAN. Without objection, the Clerk will again report the amendment offered by the gentleman from Michigan [Mr. MAPES].

The Clerk read as follows:

Amendment offered by Mr. MAPES: Page 7, line 16, after the word "States" in the amendment previously adopted, insert "and the commission may, in its discretion, when operations of common carriers by motor vehicle conducted or proposed to be conducted involve more than three States."

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

The amendment was agreed to.

Mr. MAPES. Mr. Chairman, I have one or two amendments merely perfecting the language.

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

The Clerk read as follows:

Amendment offered by Mr. MAPES: Page 6, strike out lines 13 and 14 and line 15 through the comma and insert in lieu thereof the following: "(c) Whenever there arises under the administration of this act any matter that the commission is required to refer to a joint board, or that the commission determines, in its discretion, to refer to a joint board, as hereinafter provided."

Mr. WINGO. Will the gentleman yield?

Mr. MAPES. I yield.

Mr. WINGO. The gentleman probably answered my question in answering the inquiry of the gentleman from Virginia [Mr. MOORE]. Will it be a fact that where there are three States or two States involved the joint commission is mandatory, and, where there are more, it is discretionary?

Mr. MAPES. That is correct.

Mr. WINGO. If there are four or five or more States, no jurisdiction vests in the joint board unless the commission sees fit to refer it to it?

Mr. MAPES. That is correct. This provision in the bill as it stands simply provides for compulsory reference, and the amendment which I have offered is simply to perfect the language to make it apply also in case the commission, in its discretion, sees fit to refer matters to joint boards where more than three States are involved.

Mr. WINGO. With three or less States it is mandatory; with more than three it is discretionary.

Mr. MAPES. The gentleman has stated it correctly.

Mr. LEA of California. Will the gentleman yield?

Mr. MAPES. I yield.

Mr. LEA of California. I understand that under the amendment adopted yesterday or the day before, in order for the bonds of a carrier to be approved, it would be necessary to assemble the representatives of State commissions for three States or two States. That is true, is it not?

Mr. MAPES. That is true.

Mr. LEA of California. Would not the gentleman consider offering an amendment to relieve that situation?

Mr. MAPES. I think so; yes. That would appeal to me.

Mr. LEA of California. It should not be necessary to assemble two or three States to approve a bond.

Mr. DENISON. Will the gentleman yield?

Mr. MAPES. I yield.

Mr. DENISON. That is only one instance that is not in harmony with the purpose of the bill. For instance, if there is a complaint made that a driver is being worked beyond the hours allowed by the commission, in order to settle the questions arising out of that complaint the commissions of three States will have to summon a joint board composed of commissioners of three States and they will have to settle the question.

Mr. STAFFORD. Will the gentleman yield?

Mr. MAPES. I yield.

Mr. STAFFORD. I challenge the statement of the gentleman from Illinois [Mr. DENISON] that that is necessary under the provisions of the bill. Will the gentleman kindly state where there is such a provision contained in the bill?

Mr. DENISON. I will if I have time.

Mr. STAFFORD. Well, we have plenty of time.

Mr. RAYBURN. It is at the bottom of page 7.

Mr. MAPES. I understand some of the Members have given consideration to the question raised by the gentleman from California [Mr. LEA], and I think it might be desirable, if the gentleman has an amendment in mind, that he should offer it.

Mr. LEA of California. I have no amendment prepared at this time.

Mr. MAPES. But it is not desired that this entire question of reference to joint boards where more than two States are involved be opened up for debate again.

Mr. LEA of California. May I suggest to the gentleman from Michigan [Mr. MAPES] that he consider this problem of taking care of these small questions, and if necessary offer an amendment later to take care of it.

Mr. MAPES. I shall be glad to do that.

Mr. BURTNESS. Will the gentleman yield?

Mr. MAPES. I yield.

Mr. BURTNESS. Let me suggest to the gentleman from California [Mr. LEA] that the only bond that is ever required is the original bond and is furnished under the language found on page 8 on the issuance of the certificate. It is really a part of the original procedure.

Mr. LEA of California. Of course, there may be a withdrawal of a bond or the renewal of a bond or a higher bond required. So I think if the gentleman from Michigan will follow the course suggested it will be satisfactory.

Mr. MAPES. It clearly needs some consideration before action is taken.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. MAPES].

The amendment was agreed to.

Mr. RAYBURN. Mr. Chairman, in order that there may be no misunderstanding about what we have done, and following up the assertion made by the gentleman from Illinois [Mr. DENISON], I might read from the bill what the State boards may be called together upon or any one of which may be called upon to do. The bill reads:

Applications for the issuance of certificates of public convenience and necessity (except in so far as the action upon such applications is based solely upon answers to questionnaires and information furnished to the commission, as provided in section 5 (b)); the suspension, change, or revocation of such certificates; applications for the approval and authorization of consolidations, mergers, and acquisitions of control; complaints as to violations by common carriers by motor vehicle of the requirements established under section 2 (a) (1); complaints as to rates, fares, and charges of common carriers by motor vehicle; and the approval of surety bonds, policies of insurance, or other securities or agreements for the protection of the public, required on the issuance of a certificate.

Now, one of these boards from two States or three States can be called into being, with all of the necessary expense, for either one or all of these things set forth. That is what we have done by the adoption of the amendment offered by the gentleman from Michigan, in my opinion.

Mr. MAPES. Will the gentleman yield?

Mr. RAYBURN. I yield.

Mr. MAPES. I do not want to get into a discussion of this matter again, but the gentleman will understand that most of these things are major matters, such as the filing of a certificate, the matter of a merger of competing lines, rates, fares, and charges to be assessed, and the approval of policies of insurance and securities. They are practically all major matters which the gentleman has read.

Mr. RAYBURN. It is satisfactory. I was just reading what these State boards could be called together to consider.

Mr. MAPES. Certainly. I do not want to open up the debate on that question again.

Mr. RAYBURN. The House has already passed the amendment, but there was some controversy as to what matters could be referred to one of these joint boards.

Mr. HUDDLESTON. Will the gentleman yield?

Mr. RAYBURN. I yield.

Mr. HUDDLESTON. The gentleman used the word "may" be called together. The gentleman means, of course, that they must be called together. In short, there is no discretion. It is mandatory that all of these matters must be considered by the board.

Mr. RAYBURN. The gentleman is correct. Where three States are involved those boards must be set up. The reason I used the word "may" was to illustrate what could be done where all States are involved, and, as the gentleman from Alabama says, it must be done where three States are involved.

Mr. HUDDLESTON. In short, if somebody complained of a rate, no matter how trifling the complaint might be, one of these joint boards must be raised, must have the hearings, and must settle the question.

Mr. RAYBURN. That is what we have done by adopting the Mapes amendment.

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

The Clerk read as follows:

On page 7, line 4, strike out the word "unanimous" and insert in lieu thereof the word "majority."

Mr. MAPES. That amendment seems desirable, in view of the fact that the joint boards are to have jurisdiction where more than two States are involved.

Mr. DENISON. Will the gentleman yield?

Mr. MAPES. Yes.

Mr. DENISON. I would like to ask what would be a majority of a board composed of two members, and that will be the board where there are only two States.

Mr. MAPES. In that case "majority" would, of course, be synonymous with the word "unanimous."

Mr. DENISON. It would have to be unanimous in that case?

Mr. MAPES. Yes.

Mr. DENISON. Of course, the same thing would apply in the case of four States.

Mr. MAPES. Where there are four States, of course, three would be a majority.

Mr. PARKER. Mr. Chairman, I move that all debate on this amendment close in five minutes.

The CHAIRMAN. The gentleman from New York moves that all debate on this amendment close in five minutes.

The motion was agreed to.

Mr. RANKIN. Mr. Chairman, I rise in opposition to the amendment. I am not in favor of this amendment. We have some other perfecting amendments which another minority hopes to get adopted, so that we will further strengthen the power of these State boards, and also we hope to make the decisions of those joint boards final when approved by the boards of their respective States.

I am not willing to give to two States the right to impose their will upon another one. I want to leave this provision in the bill as it now stands and then where there are three States involved—as there will be invariably, and very seldom more than three—they may iron out their differences without two States overriding the will of the third State.

Mr. MAPES. Will the gentleman yield?

Mr. RANKIN. Yes.

Mr. MAPES. Of course, if one State disagrees with the findings of the joint board, it can appeal the matter to the commission and the order of the joint board in that case does not go into effect until the commission passes on it.

Mr. RANKIN. I understand that is true under the present provisions of the bill, but under amendments which we hope to get adopted, which would leave the decision to the State boards and give them the final decision, that will not be the case.

I hope this amendment will be voted down. If that were your policy, why did you come in in the original bill and say that all of the votes on these joint boards must be unanimous?

Mr. BURTNESS. For the simple reason that the bill as reported covered only two States, and therefore it had to be unanimous. That is the only reason. The original bill, introduced by the gentleman from New York [Mr. PARKER] at the beginning of the session, which contemplated the using of joint boards generally, provided for a majority, just as the Mapes amendment does.

Mr. RANKIN. This morning I was talking with a gentleman from Colorado and we had this identical question up. He said: "Here is Missouri and Kansas. Suppose they agree on a regulation that suits the States of Kansas and Missouri but does not suit us? They would have a right to override the will of the people of Colorado and enforce the will of those other States upon them."

Now, the States are getting along very well as it is. Adjoining States are agreeing on all these matters that affect them jointly. I submit that if we are going to have three or five States involved, we ought to make the findings of those States unanimous.

Mr. DENISON. Will the gentleman yield?

Mr. RANKIN. Yes.

Mr. DENISON. That danger is inherent in this policy. Whenever there is a difference of opinion among the States it ought to be settled by the Federal Government and not by the other States.

Mr. RANKIN. Oh, I do not agree with that. I know there are all kinds of interstate questions arising whereby even our States are required to make treaties with each other and do make treaties with each other, but when we do finally arrive at a decision it is a unanimous decision and everybody is satisfied. There is no friction, and there is no contention that one State is imposing upon another; and then, also, we do not call in the power of the Interstate Commerce Commission or the Federal Trade Commission to fix regulations that probably will not be satisfactory to any one of the three.

I hope the amendment will be voted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. MAPES].

The amendment was agreed to.

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

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

The Clerk read as follows:

Amendment offered by Mr. HASTINGS: On page 7, line 14, subsection (d), strike out all of subsection (d) as amended and insert in lieu thereof the following:

"(d) The commission shall, when operations of common carriers by motor vehicle conducted or proposed to be conducted between States are involved, refer to a joint board for hearing and decision and appropriate order thereon any of the following matters arising under the administration of this act with respect to such operations: Applications for the issuance of certificates of public convenience and necessity; the suspension, change, or revocation of such certificates; applications for the approval and authorization of consolidations, mergers, and acquisitions of control; complaints as to violations by common carriers by motor vehicle of the requirements established under section 2 (a) (1); complaints as to rates, fares, and charges of common carriers by motor vehicle; and the approval of surety bonds, policies of insurance, or other securities or agreements for the protection of the public, required on the issuance of a certificate. In acting upon matters so referred, joint boards shall be vested with the same rights, duties, powers, and jurisdiction as are vested hereinbefore in this section in members or examiners of the commission while acting under its orders in the administration of this act. Orders recommended by joint boards shall be filed with the commission and shall become orders of the commission and become effective as of date of filing with the commission."

Mr. PARKER. Mr. Speaker, I ask unanimous consent that the gentleman from Oklahoma may proceed for 20 minutes.

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

There was no objection.

Mr. HASTINGS. Mr. Chairman, everyone, of course, appreciates the expanding, growing, motor-bus transportation industry. It has spread rapidly throughout the entire country. It will be greatly enlarged and utilized by the traveling public. Everybody appreciates that interstate bus transportation must be regulated to properly protect the interests of the public and the bus companies themselves. The amendment, therefore, that I offer only goes to the question of whether interstate bus transportation companies shall be regulated by joint boards composed of representatives of commissions of the respective States, or by the Interstate Commerce Commission, acting through examiners and subordinate employees.

Mr. BURTNESS. Will the gentleman yield before going into an explanation of his amendment?

Mr. HASTINGS. I yield.

Mr. BURTNESS. I could not follow the reading of the amendment. Is it substantially the language of the original bill?

Mr. HASTINGS. I am going to explain that.

Let me explain just what the proposed amendment does.

The amendment which I offer is a substitute for subsection (d) of section 3 on pages 7 and 8 as amended, and if adopted would permit joint boards to be appointed as Federal agencies in any number of States through which any motor bus is to run and confer upon these Federal agencies the authority to pass finally, upon the matters submitted to them as provided in this subsection.

In my judgment if a commission can be safely trusted to regulate motor-bus transportation within the State, then a representative of that commission, forming a joint board with the representatives of one or more additional States affected, can and should be trusted to regulate motor-bus transportation between those States affected. In my judgment there is no answer to this argument. It simply means you are willing to grant a larger measure of authority to the joint boards composed of representatives of the commissions representing the States through which these motor busses run.

In line 17 my amendment strikes out the words "recommendation of" so that the joint boards would be authorized to hear and decide the questions submitted and not make recommendations to the Interstate Commerce Commission. The amendment which I offer strikes out, after the word "necessity" in line 21, "except in so far as the action upon such applications is based solely upon answers to questionnaires and information submitted to the commission as provided in section 5 (b)."

This would leave the granting of applications to the joint boards rather than the submission to the Interstate Commerce Commission of applications accompanied by questionnaires. Surely the joint boards of two or more States, know the local situation, and the need of granting the applications, better than the Interstate Commerce Commission, the members of which have no personal knowledge of the situation and must be entirely governed by the recommendations of the joint boards or of examiners for the commissioners. Everyone knows that all of these details will be passed upon by examiners and subordinate employees of the Interstate Commerce Commission and that the members of the commission can not possibly have time to give detailed consideration to the thousands of applications, complaints, and other matters about which it will be called upon to enter orders.

The amendment which I offer strikes out, after the word "effective" in line 14, page 8, the words "and shall be subject to review by the commission in the same manner as provided in the case of members or examiners under this section," and inserts the words, "as of the date of filing with the commission," which would make an order of any joint board effective upon its being filed with the commission.

Subsection (c) of section 3, provides "all decisions and recommendations by joint boards shall be by majority vote."

These joint boards are made up of representatives of the commissions of as many as three States, as provided in this bill, and would be made up of representatives from all States affected, if my amendment is adopted and if they agree by a majority vote, surely it is safe for this order to be effective upon filing with the commission, without any further action by the commission.

These joint boards are selected by the commissions of each State, and in event of the failure to do so, by the governors of the respective States.

The joint boards will, therefore, be composed of men of responsibility and broad experience, and especially selected by their respective States, having in view their fitness and qualifications.

This bill gives these joint boards no final authority in any single detail. Every order of the joint board of every kind and character is subject to review and approval, and subject to be reopened and reconsidered, amended, modified, or set aside, by the Interstate Commerce Commission, and this, in practically all cases, upon the recommendation of an examiner or a subordinate employee of the commission, who will pass upon the work of the joint boards.

Will any Member of the House by his vote say that he would favor yielding to the judgment of an examiner for the commission or subordinate employee to review the work of any joint board? If you do, you are in favor of concentrating everything in Washington. If you are in favor of decentralization of power, you will leave the thousands of details with the joint boards and permit these joint boards to supervise interstate bus transportation and finally pass on every application or order affecting them, to the same extent that the respective State commissions pass upon intrastate bus transportation.

When the Esch-Cummins bill was up for consideration I called attention then to the fact that that bill practically took away much of the authority of the State commissions. Subsequent interpretation of the bill confirmed my criticism of it. Let me warn the House that the joint boards will be only fact-finding boards with no final authority, but will collect the evidence and report its views, and in the end all of the authority will be concentrated in the Interstate Commerce Commission in Washington. You who believe in a larger measure of local self-government and in a decentralization of authority in Washington ought to support an amendment which will have for its purpose giving practically all of the authority to local joint boards under the general supervision of the Interstate Commerce Commission.

There has been some discussion as to whether or not such final authority may be conferred upon these joint boards. In numerous colloquies with Members on the floor I have asserted that Congress has the power and can confer this authority upon joint boards as Federal agencies.

As to the power of Congress, I do not have any doubt.

Paragraph 3 of section 8 of Article I of the Constitution empowers Congress:

> To regulate commerce with foreign nations and among the several States, and with the Indian tribes.

This interstate bus regulation is bottomed upon the authority conferred by this clause to regulate commerce among the several States and it will be seen that this same particular clause of the Constitution confers authority over Indian tribes.

Section 22 of the act of Congress of April 26, 1903, authorized conveyances by full-blood heirs of their inherited interest in lands allotted to members of the Five Civilized Tribes, with the approval of the Secretary of the Interior.

Oklahoma was granted statehood by proclamation issued on November 16, 1907, and thereafter, on May 27, 1908, Congress passed an act, section 9 of which amends section 22 of the act of April 26, 1906, by providing that—

> No conveyance of any interest of any full-blood Indian heir in such land shall be valid unless approved by the court having jurisdiction of the settlement of the estate of such deceased allottee.

That amendment transferred the jurisdiction from the Secretary of the Interior to the county courts of Oklahoma, just as I would transfer the final authority in many matters from the Interstate Commerce Commission to the joint boards to be selected as provided in this bill.

The above-mentioned section 9 was construed by the Supreme Court of the United States in the case of Parker et al. *v.* Richard et al., reported in Two hundred and fiftieth United States Report, page 235, where the court held that in respect to the approval of conveyances of full-blood heirs that the county courts acted as Federal agents.

At page 239 the court said:

> That the agency which is to approve or not is a State court is not material. It is the agency selected by Congress and the authority confided to it is to be exercised in giving effect to the will of Congress in respect of a matter within its control. Thus in a practical sense the court in exercising that authority acts as a Federal agency, and this is recognized by the supreme court of the State.

No appeal was provided from the county courts acting as Federal agents in the approval of these conveyances.

My amendment would not permit similar appeals, but would make final the decisions of the joint boards in all matters committed to their consideration which must be by a majority vote and over questions as to interstate transportation identical with the questions they pass upon within their respective States.

The amendment I have offered would constitute these joint boards as Federal agents to administer the authority granted to them by the terms of this bill. Every order and act of a joint board would be as a Federal agent. This question has been construed by the Supreme Court of Oklahoma in numerous cases. (Tiger *v.* Lozier, 256 Pac. 727; Boyd *v.* Weir, 253 Pac. 988; Malone *v.* Wamsley, 195 Pac. 484.)

The power, therefore, of Congress to pass such legislation would seem to be clear and undisputed.

No one to-day will hazard the extent of the expansion of motor-bus transportation. Thousands of individuals, companies, and corporations are making applications to their respective States for authority to transport passengers. They will gridiron every State and county and use every highway, State and Federal. Every State, with one exception, has enacted legislation to regulate motor-bus transportation within their borders. My State of Oklahoma has enacted legislation in an effort to safeguard the interests of the public, and I am sure that in the administration of our local law it will be found necessary to amend it from time to time. It will be much easier to enact legislation to regulate interstate motor-bus transportation now than to secure amendments later by Congress. We should be sure that this legislation is well considered and all the authority that can safely be intrusted to joint boards composed of local representatives from the respective States is given to them.

In my consideration of this bill I asked the recommendation of the Corporation Commission of Oklahoma, and to my inquiry asking for an expression of its opinion upon this bill I received the following telegram in reply:

OKLAHOMA CITY, OKLA., *March 13, 1930.*

Hon. W. W. HASTINGS,
Member of Congress, House Office Building,
Washington, D. C.:

> The corporation commission favored the Parker bill regulating motor-bus interstate transportation as it was originally introduced. We understand that this bill has been amended in the House committee so as to provide that the State commissions will have no jurisdiction over any interstate line where more than two States are involved. We understand that some amendments will be offered to this bill which will give the State commissions jurisdiction to pass on applications where more than two States are involved and we think that the bill should be amended so as to provide that a body composed of a representative from each of the commissions affected by any interstate application should pass upon the application, with authority to grant or deny such application and permitting an appeal to the Interstate Commerce Commission if Congress thinks such an appeal should be granted. We feel that some act should be passed by Congress conferring jurisdiction on some body or commission to regulate the interstate motor carriers, but we feel that the States affected by such interstate motor carriers should be given original jurisdiction to pass on such applications.

CORPORATION COMMISSION,
By C. C. CHILDERS, *Chairman.*

My study of the bill had driven me to the same conclusion, and I had proposed the amendment before receiving the telegram from the commission.

This commission recommends the amendment which I have offered, which, in effect, enlarges the joint boards to more than two States and gives these boards the final authority to pass upon applications, although my amendment would not permit an appeal to the Interstate Commerce Commission. I think that the granting of these applications should be left to the joint boards, without an appeal.

The joint boards as this bill is reported are examining Federal agents, fact-finding bodies, forwarding bodies, with no final authority to do anything which is not subject to amendment, review, modification, or reversal by the Interstate Commerce Commission.

Without the adoption of the amendment which I have offered, there are only two justifications which one can find for voting for this bill:

First. The necessity of the regulation of motor-bus transportation denied by the decisions of the Supreme Court to the State commissions, so that this bill does not take away any authority from the State commissions over interstate bus transportation, because they have no authority now to take away. The bill does create joint boards as fact-finding commissions, to forward their views to the Interstate Commerce Commission, which, after interminable delays, causing much criticism of the commission, will finally be acted upon.

The second justification one may offer for voting this measure is the hope that before it is finally enacted that the Senate will insist upon more authority being granted to the local joint boards. I want to urge this upon the attention of the State commissions throughout the country in the hope that they will give study to this bill after it shall have passed the House and before its consideration in the Senate, so that the Senate may have the advantage of their study and recommendations of amendments to the bill. For my part I am unwilling to give my support to a bill which concentrates all final authority in the Interstate Commerce Commission.

I fear that Members of the House do not fully appreciate the great amount of additional work this bill will place upon the Interstate Commerce Commission. It is already greatly overburdened with work and the commission should be saved from the responsibility of the many details this bill places upon it. Every minor detail which could be with safety transferred to the several joint boards should be given to them to pass upon in the interest of expedition. I have no sympathy with the argument as to the expense of the joint boards. They would receive nothing additional from the Government for salaries and the only additional expense would be the attending of the meetings. These meetings, largely by the representatives of the two States, would be held at convenient times and places when a large number of applications and other matters would be brought to their attention, and hence the question of expense, in my judgment, is one of minor importance. Besides, we are providing for joint boards in three States and as to them there will be no additional expense because they must meet anyway, and, in my judgment, nine-tenths of the business transacted by the joint boards will be by the boards of only three States.

No Member who believes in local self-government can justify his vote against this amendment.

Let us examine how it would be administered if adopted. The commission would refer to the respective joint boards, as provided in subsection (d) of section 3, as amended, all applications for the issuance of certificates of public convenience and necessity, which means permission to do an interstate motor-bus transportation business; the suspension, change, or revocation of such certificates; applications and authorization of consolidations, mergers, and acquisitions of control; complaints as to violations by common carriers by motor vehicles of the requirements established under this act; complaints as to rates, fares, and charges of common carriers by motor vehicle; and the approval of surety bonds, and all other matters embraced within the provisions of this act.

It is admitted that 90 per cent of these matters would be passed upon by joint boards of two States. It is safe to say that 7½ per cent additional will be passed upon by joint boards of three States; hence in my judgment 97½ per cent of all of these matters over which joint boards will be given jurisdiction will be passed upon by joint boards of three States.

I emphasize this for the purpose of inviting attention to the fact that joint boards composed of representatives of more than three States will seldom be required to meet.

In actual practice the commission will give notice of the call of representatives of State commissions who will compose these several joint boards to meet at some central point, at which time they will be organized into as many joint boards as may be necessary, and there will be submitted to the respective boards the matters over which each would have jurisdiction. They would divide up into separate joint boards similar to the division of the Senate into its several committees, and the matters over which each board has jurisdiction would be assorted out, indexed, briefed, and passed upon rapidly by the respective joint boards. At this same general meeting a joint board of two States may meet in the morning and pass upon the matters referred to it, and in the afternoon these members may meet with other members, forming joint boards, for the consideration of matters over which those respective boards would have jurisdiction. Many matters referred to them would be routine and could be passed upon rapidly and in a short time. There would be necessity only occasionally for the joint assembling of the additional joint boards which the amendment I offer would create. These boards would cause but little additional expense, as there would be no additional salary expense and only the expense of transportation and hotel accommodations incident to attendance upon the meetings.

If all of the representatives of the 48 States were to meet jointly and remain in session for 30 days, calculating their expenses, exclusive of transportation, including board, at the rate of $7 per day allowed, the total expense incurred would aggregate $10,080. The appropriation for the Interstate Commerce Commission for the current year is $7,548,825. The independent offices bill, as passed by the House, carried $8,322,650 for the coming year, and as reported by the Senate committee $9,329,963.

If all of the representatives were to assemble once each month and remain in continuous session, exclusive of transportation, their expenses would amount to only $120,960. The figures cited in the debate on this bill show an enormous amount already invested in motor-bus transportation. This is just the beginning. No flight of the imagination can vision the investment in motor transportation, including terminals, busses, and equipment, within the next generation. If this bill is enacted, a far larger sum than the figures I have given will be asked for the Interstate Commerce Commission to render the additional service which this bill will require.

If only group meetings of joint boards of two or more States are called occasionally, which, as I have estimates, would cover 97½ per cent of the cases, these boards from adjoining States could be assembled in 48 hours, all matters committed to them rapidly passed upon, a decision reached, and forwarded to the commission for filing, when it would immediately go into effect.

Mr. HOCH. Will the gentleman yield?

Mr. HASTINGS. I yield.

Mr. HOCH. Under the gentleman's amendment the decision of the joint board would be final and not subject to the review by the Interstate Commerce Commission.

Mr. HASTINGS. Exactly.

Mr. HILL of Alabama. Suppose they could not agree, what theem?

Mr. HASTINGS. I am sure they will always harmonize their differences. There never will be a time—and we have substituted majority for unanimous vote—you never will find the time when the joint board will not reach some agreement in the best interests of the traveling public of their respective States.

Mr. HOCH. Does the language provide for a decision by the majority, in the gentleman's amendment?

Mr. HASTINGS. A decision by a majority vote is provided in another subsection, so the final decision will be by majority vote, and this amendment does not change that.

Remember always that these several State commissions are appointed with due regard for their competency and because of their peculiar knowledge of conditions within their respective States. They are already trained. Any member who votes against this amendment votes in favor of centralizing additional authority in Washington and votes in favor of permitting examiners and subordinate employees of the Interstate Commerce Commission to pass upon these matters, because after all that is what it means, as the members of that commission will not have time to pass upon the thousands of details referred to it, instead of submitting these same questions to representatives of the several State commissions brought together on joint boards.

I yield to no man in the House in my advocacy of State rights or local self-government. This amendment brings the government back to the people. These joint boards will respond sympathetically to public sentiment. The Interstate Commerce Commission, acting through examiners and subordinate employees, is too far removed from local public sentiment to appreciate the importance of expedition or to view important local questions from the local viewpoint. Without this amendment this bill concentrates too much power in the Interstate Commerce Commission.

My State particularly is opposed to long-distance government. We have been guided by rules and regulations of the Bureau of Indian Affairs, first in the War Department and now in the Interior Department, for 100 years. It has been the cause of many interminable delays and a great deal of just criticism.

After all, no board or commission, sitting as far away as the seat of our National Government, can be expected to respond to local sentiment as the representatives of commissions or joint boards.

Some few years ago the city of Okmulgee, Okla., was anxious to induce the Missouri, Kansas & Texas Railway to enter that city. This railroad secured an option on a short line of railroad entering Okmulgee and running south some 10 or 12 miles into the coal fields.

An application was made for a certificate of convenience and necessity, and it was referred to the State Corporation Commission of Oklahoma for investigation and report. This report was favorable, but it was reviewed by an examiner for the Interstate Commerce Commission and an adverse report made. In the meantime a train load of anxious representatives from Okmulgee came to Washington at great expense and aided their Representatives in both branches of Congress and the attorneys representing the city, and all interested appeared before the commission to urge early and favorable consideration. No action was taken by the commission until the option of the Missouri, Kansas & Texas Railway for the purchase of the short line had expired. Therefore the line was never built, and the splendid city of Okmulgee lost the competitive service which this railroad would have brought, and I feel sure that it would have added greatly to the upbuilding of the city and the community which it was to serve.

Let us not forget that the roads which are traversed by these motor busses are largely built by local and State taxes. It is true that the Federal Government contributes some Federal aid, but that amount is small compared to the very great amount expended from local and State funds. Here we have these highways constructed largely by local and State taxes, and yet by the terms of this bill the States and the local communities will have no control over the granting of applications for the use of such highways in so far as interstate transportation is concerned.

Let us not be deceived by the terms of this bill. I invite attention to the last three lines, which the amendment I offer would eliminate, referring to decisions of joint boards, which reads as follows:

And which shall be subject to review by the commission in the same manner as provided in the case of members or examiners under this section.

The amendment which I offer provides for the orders of these boards to be effective without review upon their being filed with the commission. Without this amendment this bill subjects every order of any joint board to review by the commission.

You have all read the decisions which emasculated State commissions so far as the railroads are concerned. They have little and practically no final authority. This bill is an entering wedge to emasculate these commissions of their authority over interstate bus transportation. Once enacted it is difficult to amend or repeal such a bill. These highways upon which the local communities and the States have expended millions of dollars will be appropriated for interstate bus transportation without the consent of the local communities and the States, and they will have little control over them. These commissions now have exclusive authority and control over and pass on similar questions with reference to bus transportation exclusively within the respective States. No reason sound in principle occurs to me why joint boards composed of the respective representatives should not be given the same final authority and control over the use of the roads in interstate bus transportation.

I have tried to show how the members of the respective commissions when they meet would divide up into joint boards to pass upon all questions which may be referred to them, and as to the expense, and I do not believe, in the first place, that the assembling of these boards would occasion any additional expense over and above the expense of the investigations that would have to be carried on under the general supervision of the Interstate Commerce Commission, and the question of the additional expense, if any, would be overcome greatly by the expeditious action of the joint boards and their sympathetic consideration in the decisions as to the many questions submitted for their consideration.

There are 11 members of the Interstate Commerce Commission, and I doubt if there will ever be assembled as many members on any joint board. You can not, of course, have the judgment of the Interstate Commerce Commission unless that commission meets and passes upon the questions submitted. If you take into consideration the amount of the salaries of the members of the commission, and the fact that no additional salary will be paid to the members of the joint boards, but only the amount of their expenses, in my judgment, it would be more economical for joint boards to pass upon the many questions referred to them than for these same questions to be referred to the Interstate Commerce Commission. If an erroneous decision is reached by the joint boards, the people of the respective States will have an opportunity to secure a change of the policy of any joint board through a change in the respective commissions.

The motor-bus industry is an expanding one. The day is not far distant when every railroad will supplement its service with motor-bus service, and this makes it the more important that the authority over this character of transportation be retained in joint boards representing the commissions of the several States.

Finally, let us remember that we are only submitting to the joint boards the questions with which the several State commissions are familiar, and which they are deciding day after day throughout each State in the Union.

Let me repeat, if a commission is competent, experienced, and trained to pass upon these same questions within a State, surely representatives of the commission can be trusted to carry that same experience with them in their action upon the joint boards.

This amendment is in the interest of expeditious action, would relieve the Interstate Commerce Commission of thousands of details with which it should not be burdened, would utilize the experience of trained men on the separate State commissions, prevent additional concentration of authority in Washington, and leave to representatives of the States the full and complete control not only of motor-bus transportation within the States but over roads which the local communities and the States have taxed themselves millions of dollars to construct.

Mr. NELSON of Maine. Does the gentleman recognize any difference in the case he cites and the case where the interests are conflicting, where the interest of the intrastate may conflict with the interest of the interstate commerce?

Mr. HASTINGS. There is no difference in principle. If the Congress by an act under the authority of this same clause of the Constitution can refer the approval of deeds to the judges of the county court and constitute them Federal agents to pass upon such conveyances, then the Congress of the United States by this legislation can constitute representatives of the State commissions Federal agents, and clothe them with the power and authority to finally pass on the question submitted to them.

Mr. NELSON of Maine. There is no question in anybody's mind, I think, about the power of Congress to appoint a State agent or a State court a Federal administrative agent, but does the gentleman agree with me that the intention of the Constitution was that interstate matters should be decided by Federal authority?

Mr. HASTINGS. Happily both are authorized by the same clause of the Constitution which I read when I first presented the question. It is under the power to regulate commerce with foreign nations and among the several States and with the Indian tribes that this power is exercised. It is under the same clause of the Constitution.

Mr. NELSON of Maine. Does the gentleman recognize any worth in the claim that matters relative to interstate commerce should be removed from the decision of those who are directly interested in them?

Mr. HASTINGS. I am now discussing the power of Congress to enact such legislation. So long as Congress has the power to regulate commerce between the States, I think the Congress has the power to constitute any body or representatives as Federal agents, just as it constitutes the Interstate Commerce Commission itself a Federal agent, with final power to pass on matters referred to it.

Mr. NELSON of Maine. I agree with the gentleman on that. I now ask him if he recognizes any merit in the claim that interstate commerce matters should be determined by those not directly interested in them.

Mr. HASTINGS. I am going to discuss that matter in a moment.

Mr. GARBER of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS. Yes.

Mr. GARBER of Oklahoma. I have a great deal of respect for the good judgment of the gentleman from Oklahoma and for his recognized legal standing. I do not believe there is any question but that the power could be delegated to the personnel referred to who would be authorized to act as Federal agents, with but one or two exceptions; and those are, if the State law did not prohibit and the individual did not refuse to act. With those two exceptions the gentleman is well supported by the authorities. Here, however, is an economic proposition which results from the gentleman's scheme of regulation. Here we have two States that have passed upon a 2-State operation. They have finally determined all the matters that have been submitted to them; the question as to rates, the question as to bonds, and various other matters. Over here we have two other States, over here in some other section we have three other States, and over here five other States, and as a result of the gentleman's scheme would we not have a lot of little jurisdictions, separate and distinct, all over the United States, and uniformity would not exist and could not be obtained by reason of the final jurisdiction given to these Federal agents.

Mr. HASTINGS. I prefer to submit such matters to local boards or commissions always than to centralize the authority in Washington.

Mr. McSWAIN. Then, Mr. Chairman, if the gentleman will permit, responding to the inquiry of the gentleman from Maine [Mr. NELSON], with the suggestion from him that the exercise of the rights of interstate commerce should be controlled exclusively by some Federal agent, I call his attention to the fact there have been more cases in the State courts dealing with the interstate commerce clause of the Constitution than in the Federal courts, and that the Constitution itself by the clause that makes the judges of the Federal States bound by the provisions of the Federal Constitution, imposes upon the State judges, wherever that question as to the control and exercise of interstate commerce arises, the duty of passing on that Federal question, and but for the judicial act itself, the decision of the high State court would be final on that Federal question.

Mr. HASTINGS. I thank the gentleman for his contribution.

Mr. NELSON of Maine. But how does that affect this case?

Mr. HASTINGS. The motor-bus industry has expanded so greatly within the last five years that there are motor busses in operation transporting passengers on every State and Federal highway in the United States. They are not only a great necessity but a great convenience. Through expansions and mergers the number engaged in interstate motor-bus transportation may be decreased but the service, through large unified companies, will be enormously expanded. The necessity for regulation is obvious, to insure a continuity of service, to regulate hours of labor, to provide for insurance to indemnify losses through accident, and this regulation is recognized as being necessary by those engaged in interstate bus transportation throughout the country, but if the Members vote to lodge this authority in the Interstate Commerce Commission, to be exercised through examiners and subordinate employees, I warn them that there will be many bitter experiences and complaints of delay which we could avoid by the adoption of the amendment I propose giving final authority to joint boards composed of representatives of the commissions of the several States, elected by the people themselves.

Mr. RAYBURN. Mr. Chairman, will the gentleman yield right there?

Mr. HASTINGS. I yield to the gentleman from Texas.

Mr. RAYBURN. They may stay at one place for a year. But suppose they went to 180 places?

Mr. HASTINGS. That would be an extreme case and highly improbable. These matters would be referred to the joint boards in large numbers, and they would be considered and decided at one sitting.

In conclusion, let me warn the Members of the House that unless the amendment which I have offered is adopted, practically every motor-bus transportation company in the country will in some way soon be connected up, owned by or allied with motor-bus transportation companies doing such an interstate business as will bring them within the shelter and protection of the provisions of this law, so as to get away from local or State regulation.

No one ever dreamed when the railroad bill was enacted that the courts would go so far in sustaining the jurisdiction of the Interstate Commerce Commission over purely intrastate roads when they were connected in any way with interstate systems.

The same thing will happen in the bus-transportation industry. The railroads will supplement their systems with motor-bus transportation, and immediately thereafter mergers will follow and the motor-bus transportation companies will be enlarged and expanded, and the Interstate Commerce Commission will have final authority over the entire subject, as they do now, in effect, over the question of railroad transportation.

Mr. NELSON of Maine. Mr. Chairman, will the gentleman yield for just one question?

Mr. HASTINGS. Yes.

Mr. NELSON of Maine. I understand you admit that this is an attempt on the part of the States to acquire control over interstate commerce?

Mr. HASTINGS. I do not make such a contention. I mean to say that by the language of this amendment the representatives of the various States are constituted Federal agents to pass upon the questions as provided in the amendment involving the use of their roads, which the States themselves have built very largely with their own money. I am asking you Members who believe in local self-government, as I conclude these remarks, which do you prefer? Do you prefer to leave these questions with the representatives of your own commissions, representing your own States, acting as Federal agents, or would you leave them to examiners or subordinate employees of the Interstate Commerce Commission? The Interstate Commerce Commission recommends in effect this amendment——

Mr. MAPES. Mr. Chairman, will the gentleman yield right there?

Mr. HASTINGS. I will be compelled to yield to the gentleman from Michigan.

Mr. MAPES. As long as the recommendations and orders of the joint board become the orders of the commission within 10 days, unless somebody appeals to the Interstate Commerce Commission, what is the use of raising all the doubts which exist in the minds of so many people as to the constitutionality of the provisions prepared by the gentleman? Those doubts are very serious in the minds of many people.

Mr. HASTINGS. It is not a serious question, in my opinion, and if you will read the decisions I have quoted I do not think it will be found to be a serious question by the gentleman.

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

Mr. HASTINGS. Yes; I yield.

Mr. RAYBURN. The only difference is that the gentleman is speaking of the final review. Nobody thinks that the examiner or commissioner would do more than merely recommend.

Mr. HASTINGS. I prefer to trust my own State authorities. I am for local self-government as far as possible.

Mr. RAGON. Will the gentleman yield?

Mr. HASTINGS. I yield.

Mr. RAGON. I am not sure that I understand the purport of the gentleman's argument. If there is a matter that pertains to Arkansas, Oklahoma, and Kansas, for instance, under this amendment joint boards composed of those three States would pass upon it?

Mr. HASTINGS. That is correct.

Mr. RAGON. And that would be final?

Mr. HASTINGS. That would be final on all matters referred under subsection (d).

Mr. RAGON. In other words, it would leave it to Kansas and Oklahoma, if they saw fit, to tell Arkansas what it might do?

Mr. HASTINGS. When this amendment was prepared the word "unanimous" was provided in the bill and all three would have had to pass favorably upon it, but, with the amendment adopted only requiring a majority vote of the board, I would immeasurably prefer to have the local representatives of the two sister States, having interests in common and understanding the local questions, pass upon these questions finally than to have an examiner or a subordinate of the Interstate Commerce Commission and finally the Interstate Commerce Commission, 1,500 miles away—too far for the voice of your people in Arkansas and my people in Oklahoma to ever be heard—pass upon it. [Applause.]

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

Mr. HOCH rose.

The CHAIRMAN. The gentleman from Kansas [Mr. HOCH] is recognized for five minutes.

Mr. PARKER. Mr. Chairman, I ask unanimous consent that the gentleman from Kansas may proceed for 15 minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the gentleman from Kansas may proceed for 15 minutes. Is there objection?

There was no objection.

Mr. HOCH. Mr. Chairman and gentlemen of the committee, I discussed this matter of joint boards at some length the other day, and I regret the necessity of some repetition.

Let me say in the first place that I approached this whole question of joint boards in an attitude sympathetic toward the jurisdiction of the State commissions. If I may make this personal reference, I am sure the members of our committee will bear me out that during my years of service upon that committee, if there is one thing I have stood for it has been to retain as far as practicable jurisdiction with State and local bodies. But I came to the conclusion that the proposal such as that made by my friend from Oklahoma is utterly impracticable. I feel there are yet some members of the committee who have not gone into the matter sufficiently to visualize exactly what is proposed by this amendment.

The gentleman's amendment carries two propositions. First, he wants to make the decisions of these joint boards final in all cases. In the second place, he desires to make it necessary that there be joint boards in all cases, regardless of the number of States involved in the operation.

I do not wish to take more than a moment of the time of the committee with reference to the first proposition. It involves, of course, a very large constitutional question. He proposes, in effect, either to turn back to the States the power to regulate interstate commerce, which was granted in the Constitution to

the Congress, or he proposes, if I may put it in another way, and the way I trust is most favorable to his contention, to create the State boards as Federal agencies.

Mr. HASTINGS. That is exactly my position, the representatives of the State boards who will be on these joint boards as Federal agents under this law.

Mr. HOCH. He proposes to create them as Federal agents and provide that their decisions shall be final. Without taking the time to elaborate, I suggest this proposition to the gentleman as a lawyer: It has been held again and again that the regulations of rates, for instance, is a legislative matter and not a judicial matter, and that the question of rates comes before the courts only when constitutional questions are involved, such as the confiscation and due process of law provisions of the Constitution. Aside from that and similar constitutional inhibitions, the power to fix rates is solely a legislative function. We have set up an agency, the Interstate Commerce Commission, to do what? To act as our agent as an administrative body in carrying into effect our legislative function. I think that is a fundamental proposition. Now, if that be true, I suggest to the gentleman that you can not grant to anybody, whether it be State officers as Federal agents, or to anyone else, the power to fix rates except as an administrative act, and if that be true, then inevitably you must at least set up a uniform rule under which this administrative act will be carried out. I might illustrate with reference to the flexible tariff and other matters. In other words, it must be that a body which exercises the power does it under a mandate of Congress, which at least sets up a reasonably certain rule under which they shall administer the legislative function we have given.

Mr. HASTINGS. The gentleman recognizes that the Interstate Commerce Commission is not a constitutional commission. It was created, I believe, by the act of 1887. If the Interstate Commerce Commission, representing us as a Federal agent, can pass upon this, why can not Congress constitute another body as a Federal agent to pass on it?

Mr. HOCH. That is exactly the proposition I am suggesting to the gentleman. When we set up the Interstate Commerce Commission we gave them directions, under a definite administrative principle or guide, as to the way in which they should carry out the legislative function.

Mr. HASTINGS. Would not these joint boards act in the same way?

Mr. HOCH. I do not want to be discourteous, but I ask the gentleman to wait a moment. I can not make all the arguments in one or two minutes. The point I am making is that the gentleman proposes to create some State officials as Federal agents, and for this phase of the argument I care not whether they are State officials or not. But he proposes to grant to certain people the power to carry out a legislative function. I might illustrate. We have in many States, for instance, a provision in their law that in passing upon the question of the issuance of a certificate of convenience and necessity they shall not take into consideration the existence of rail transportation. I hope the gentleman will get this as a concrete illustration.

In other States they have a provision in their law that they shall take into consideration the existence of rail transportation. So you would have, in effect, State officers acting as Federal agents, seeking to apply in one case, as Federal agents, an entirely different principle from that which you would apply in another case. I do not believe, without going into other arguments, that you can constitute any body to carry out the legislative function which is ours without giving them a uniform guide. We can not have an agent in one case applying one rule, on the theory that it is the administration of a Federal policy, and another body carrying out an entirely different rule on the theory that they are administering the congressional will in the matter, and I think the court would look behind the words and to the substance in determining whether a uniform regulation of interstate commerce throughout the country was in fact being carried out. An admittedly different effect, final in character, in different parts of the country, even though under the same formal rule, would certainly violate the principle, at least, of the requirement for a uniform administrative guide.

In other words, the manner in which interstate commerce shall be regulated must be determined under Federal direction.

Mr. McSWAIN. Will the gentleman yield?

Mr. HOCH. Yes; I yield.

Mr. McSWAIN. Is not that exactly what we have in connection with our nine circuit courts of appeal, nine courts sometimes deciding the same question perhaps in nine different ways, and where the minimum for a writ of certiorari is involved they can never go to the Supreme Court of the United States?

Mr. HOCH. Certainly; and the gentleman's argument answers itself. In the case of the nine circuit courts of appeal, the appeal is to the one unifying body, the Supreme Court.

Mr. McSWAIN. But the gentleman knows that the circuit courts of appeal have final jurisdiction in certain cases, and in all cases where they have final jurisdiction you may have nine different rules.

Mr. HOCH. Certainly, the gentleman does not contend that the ruling of a circuit court of appeals is the carrying out of a legislative function. I am speaking here of a definite direction in the Federal Constitution wherein it grants to Congress, and Congress alone, the power to regulate interstate commerce. But I do not want to take up any more time upon the legal argument, because that is not the principal thing I arose to discuss.

Mr. ARNOLD. Will the gentleman yield?

Mr. HOCH. I yield.

Mr. ARNOLD. Suppose a State should refuse to cooperate in the organization of these boards for carrying into effect the operation of the machinery we are creating here. In what position would we be?

Mr. HOCH. We, of course, would have no regulation at all.

Mr. HASTINGS. Will the gentleman yield?

Mr. HOCH. I yield.

Mr. HASTINGS. That question was not asked me, but does the gentleman suppose there is any commission in any State in this Union that refused to act that would stay in power for another term? Nobody believes that.

Mr. HOCH. I do not wish to impose upon the committee to discuss incidental questions. I want to get to the second proposition, and I now pass from the constitutional question involved to the question of practical administration.

So that there may be no misunderstanding about what these joint boards are to do, let me repeat what the gentleman from Texas referred to a little while ago. What is it these joint boards are to do?

Let me read from the bill:

> Applications for the issuance of certificates of public convenience and necessity, the suspension, change or revocation of such certificates, applications for the approval and authorization of consolidations, mergers and acquisitions of control, complaints as to violations by common carriers by motor vehicle or the requirements established under section 2 (a) (1)—

And I shall in a moment refer back to that—

> complaints as to rates, fares, and charges of common carriers by motor vehicle, and the approval of surety bonds, policies of insurance, or other securities or agreements for the protection of the public required on the issuance of a certificate.

Now, I refer back to section 2 (a) (1) to see what things are included there that shall be referred to these joint boards—complaints as to violations involved in section 2 (a) (1). What are they? I quote:

> To supervise and regulate common carriers by motor vehicle, as provided in this act, and to that end the commission may establish reasonable requirements with reference to continuous and adequate service at just and reasonable rates, a uniform system of accounts and reports, qualifications and maximum hours of service of employees, safety of operation and equipment, comfort of passengers, and pick-up and delivery points whether on regular routes or within defined localities or districts.

Now, all of these vast, complex things shall be, under the gentleman's proposal, referred to the joint boards.

Now, let us see how many joint boards——

Mr. KETCHAM. Will the gentleman yield before he leaves that point?

Mr. HOCH. Yes; I yield.

Mr. KETCHAM. Are not the duties which the gentleman has just enumerated now imposed upon the utility commissions of the States with reference to their own intrastate traffic?

Mr. HOCH. Yes; in most cases they are.

Mr. KETCHAM. Then, would there not be a less violent transition if we put this extra work on them rather than to impose it upon a board, like the Interstate Commerce Commission, which has never had such duties?

Mr. HOCH. If the gentleman will wait a moment, I think I can convince him as to the impracticability of the amendment, although I may be overconfident.

A facetious reference was made in the debate day before yesterday to my ability as a mathematician, and I am not at all sensitive upon that point. My good friend from Oklahoma, Judge GARBER, referred to a statement which I had made offhand a few days before, when I said I had not figured it out as a mathematical proposition, but that I would make the guess

that even with only five States involved you might have at least 25 separate and distinct joint boards. My friend from Oklahoma said I was drawing upon my imagination. Well, you know I have consulted several mathematicians since then and they tell me I am way too low on my 25, and if my good friend from Oklahoma will bear with me for a moment I would like to conduct a little class in mathematics for his benefit, and I will take five States——

Mr. GARBER of Oklahoma. Will the gentleman yield?

Mr. HOCH. I gladly yield to my pupil.

Mr. GARBER of Oklahoma. Before doing that I know the gentleman wants to be exact in his reference to my statement.

Mr. HOCH. Absolutely.

Mr. GARBER of Oklahoma. I simply stated that the gentleman's estimate of 25 different boards in five States was not coupled with the statement of fact that it would only require five different members, each member not being prohibited from acting on all the various boards.

Mr. HOCH. Yes; but, of course, I am not talking about the number of members, I am talking about the number of separate and distinct boards, and bear in mind that each board must be created as a separate, legal entity. It must organize, it must have its officers, it must have its stenographers, it must have its clerk, and it must make a record which is to be transmitted to the Interstate Commerce Commission.

Mr. O'CONNOR of Oklahoma. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. O'CONNOR of Oklahoma. And every time there is a change of any one of the members on these boards, you have got to reorganize that board.

Mr. HOCH. Yes; I hope to get to that point in a moment. Let us take five States and see exactly what is proposed. Let us take the States of New York, Pennsylvania, New Jersey, Delaware, and Maryland, and remember that all these questions, not only with respect to the issuance of a certificate, but complaints as to poor service, as to improper hours of employment, as to safety of equipment, as to insurance, and as to all these other things, must be referred to a joint board called into being for the specific purpose of passing upon the question at issue.

Now, here is an operation between New York and Pennsylvania—Buffalo and Philadelphia. Suppose the service is in effect and there is a complaint about the service. Some one makes a complaint, and you must call into being a board for the purpose of considering that, one from Pennsylvania and one from New York. That is one.

Here is another operation between New York and New Jersey. The first board has nothing to do with this; it is a separate and distinct board.

Here is an operation between New Jersey and Pennsylvania, and that is three boards. Here is a bus operator which operates not only from New York into Pennsylvania but runs into Wilmington, Del. That is the third board. The first board has nothing to do with it. It is a distinct entity.

Here is another operator that goes from New York and through Pennsylvania and Delaware and into Maryland. That is the fifth. Here is an operator who operates from New York through New Jersey into Pennsylvania. That is the sixth. There is another operation through New Jersey into Delaware and into Maryland; that is seven. Here is a carrier operating from Maryland into Pennsylvania and into New Jersey; that is the eighth board. Here is another that operates from Delaware into Pennsylvania and New Jersey. There I have given nine boards. I want to say to the gentleman from Oklahoma if he will pursue it further he will readily get 25 boards—a conservative estimate of the number of distinct boards that might have to be created to pass on operations in the case of any five States.

Now multiply that, as the gentleman from Oklahoma proposes, and take 48 States, and we have operators certainly to-day halfway across the country, and my belief is that you can buy a ticket now clear to San Francisco.

Here is an operation involving a dozen States in the Union across the country. Some one makes a complaint about rates, about service, or any other matter, or some one wants a new certificate. You have to take the map and see the particular States the operation goes through and call into being a board for that purpose.

Mr. HASTINGS. Will the gentleman yield?

The CHAIRMAN. The time of the gentleman has expired.

Mr. HOCH. I ask for five minutes more.

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

There was no objection.

Mr. HASTINGS. Will the gentleman yield?

Mr. HOCH. I yield.

Mr. HASTINGS. Does not the gentleman recognize that a lot of the applications would accumulate in the Interstate Commerce Commission, and they would call the representatives of the board there in a group or collectively, and they would submit any number of matters, just like a court clearing a docket, taking into consideration all the matters that had accumulated up to that time?

Mr. HOCH. No; I realize nothing of the sort. In the first place, we would not want to wait for matters to accumulate. The gentleman seems to be under the impression that this is a regional matter. If we had regional boards it would be a more practical proposition. One of these boards assembled from across the country would hardly get into session and finish its work before there would be another complaint with reference to some operation, and you would have to call them back again; and if the operation entered another State you would have to create a separate board—a distinct legal entity—to make a separate record.

Some reference was made by the gentleman from Virginia, for whom I have great regard, to the number of operations at the time the Interstate Commerce Commission made its report. The report was based on figures gathered in 1926. In these four years the interstate operations of busses have gone up like mushrooms. You know what is happening, that interstate busses are being increased in size and improved in all sorts of ways in order to attract the public. There is no comparison between the amount of interstate operations that are in effect to-day and what were in effect four years ago.

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

Mr. HOCH. Yes.

Mr. O'CONNOR of Oklahoma. The gentleman came up to a very important subject and then left it. Considering this is a transcontinental route and that it crosses 12 States, suppose some one State did not nominate anybody to act, then you would not have any board or any regulation.

Mr. HASTINGS. Oh, under this law if the commissions refuse to act the governor can appoint somebody.

Mr. O'CONNOR of Oklahoma. But suppose the governor did not want to act.

Mr. McSWAIN. And suppose that the President did not appoint a member of the Supreme Court, where would we be?

Mr. HOCH. I am quite willing to assume that there will be a member, and I am also willing to assume that there will be a member traveling in every case from a State to attend these meetings, because it is provided that not only the commission members may go but that they may delegate somebody else to go.

Mr. COOPER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HOCH. I yield.

Mr. COOPER of Ohio. I am interested in trying to get some regulation of the employees engaged in interstate motor bus traffic. I understand to-night they will run a man out of Washington clear through to Pittsburgh, almost 300 miles, without a change. Suppose a man had a certificate to operate a bus from Boston to Washington, I believe he would have to go through nine States. Does not the gentleman think it would be almost impossible to get those nine States to agree on regulations in regard to the hours of service of these operators?

Mr. HOCH. I not only think it would be difficult, but I think it would be utterly impracticable to be compelled in every case such as the gentleman states to call into existence a board to pass on that particular case.

Mr. HASTINGS. Does not the gentleman believe that the Representatives of his State and mine would be more sympathetic with labor than the Interstate Commerce Commission?

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

Mr. PARKER. Mr. Chairman, I move that all debate upon this amendment be now closed.

The motion was agreed to.

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

The question was taken; and on a division (demanded by Mr. HASTINGS) there were—ayes 17, noes 86.

So the amendment was rejected.

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

The Clerk read as follows:

Amendment offered by Mr. MAPES: Page 8, line 7, after the word "certificate" insert the words "application for which is referred to a joint board."

Mr. MAPES. Mr. Chairman, that amendment was prompted by the question that the gentleman from California [Mr. LEA] submitted a few moments ago. It has been prepared by the legislative counsel, and if adopted will do away with the necessity of sending to the joint boards the questions of surety bonds

and policies of insurance, and so forth, of operators who apply for a certificate of convenience and necessity under the grandfather provision of the bill. It is supposed that certificates in those cases will be issued largely as a matter of course. They will be acted upon after answers are made to questionnaires submitted by the commission.

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

Mr. MAPES. Yes.

Mr. STAFFORD. Will the gentleman please explain the mechanism of his proposal under his amendment?

Mr. MAPES. If the gentleman will refer to page 7, line 21, he will see that certain matters relating to questionnaires submitted to operators already in operation under the grandfather clause do not have to be referred by the commission to these joint boards. It would seem unnecessary to require the reference of matters relating to surety bonds, insurance policies, and so on, arising under this grandfather provision, any more than the other questions.

Mr. STAFFORD. The gentleman is quite sure that the language of his amendment takes care of that proposition?

Mr. MAPES. I am reasonably sure. As I said, the language was prepared by the legislative counsel.

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

The amendment was agreed to.

Mr. MOORE of Virginia. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia: Page 5, lines 11, 12, 14, 18, and page 6, line 9, strike out the words "or examiner."

Mr. MOORE of Virginia. Mr. Chairman, under the act to regulate commerce applicable to carriers by rail, it is provided that there shall be 11 commissioners, that those commissioners may be divided into groups of not less than 3, and to the commission as a whole or to those various groups may be assigned the duty of rendering decisions in the cases which they undertake. There is not one solitary word in the act to regulate commerce about examiners. Of course, we all know very well that examiners are used, but they are simply agents or arms or helpers of the Interstate Commerce Commission, and the decisions are left to the commission en bloc or to not less than three members of the commission. We have in this bill an extraordinary provision that makes one commissioner—and I am not raising any objection to that—or an examiner the primary judge in a case. The examiner is not appointed by the President; he is not confirmed by the Senate. He gets into the commission through the processes of the civil service law.

Very often he is a most excellent man. Sometimes he may perhaps be as competent as a commissioner himself. But very frequently he is an inexperienced man who has not been often called on to investigate the cases that are presented to the commission. Now wherefore, then, can there be any excuse for giving him the status of a judge? The bill provides that he shall have that status, and when he makes his decision his judgment is final, unless a protest shall be made within the short period of 10 days. After that, in the absence of such a protest, all that is possible with respect to that judgment in order to modify or get rid of it is to file a review proceeding before the commission, which if entertained may not be disposed of for months or perhaps for years.

I know perfectly well that if my amendment is adopted a great deal of the work will be done by the examiners; but, in my humble opinion, it is inexcusable to attempt in this proposed act to draw the line which is drawn between the regulation of the railroads, where an examiner is vested with no such authority as this bill gives him, and to give the extent of authority that is proposed to be confided to him by the section under discussion. The only answer that can be made—and I see my valued friend from New York [Mr. PARKER], the chairman of the committee, suggesting to another member of the committee [Mr. DENISON] that I should be answered—the only answer is that you are arbitrarily doing something that has no precedent. It would be just as absurd to provide by Federal statute that not the judge alone, but the master in chancery, shall decide a case. I do not see how it can be justified.

I am anxious to have a proper measure of Federal regulation. I am willing to go along with the committee to provide that. But I am unwilling to take the step that is suggested here by doing a thing that has not been thought of heretofore; to say solemnly in an act of Congress that not the men who are the judges, who have been chosen by the President and confirmed by the Senate, shall act as judges, but that in addition, certain other men who are in a wholly different category, shall have exactly the same power.

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

Mr. RAYBURN. Mr. Chairman, I ask unanimous consent that the gentleman may proceed for one minute more.

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

There was no objection.

Mr. RAYBURN. The gentleman has just voted for an amendment giving the State boards the same authority. They are not appointed by the President or confirmed by the Senate.

Mr. MOORE of Virginia. No. But those State boards are simply cooperative bodies; they are advisory bodies. The bill authorizes the Interstate Commerce Commission to create the joint boards, and it deals with the findings of the joint boards just as it deems proper. I think my friend must recognize that there is no analogy. I am willing to do what I can, as I said a moment ago, to further the general purpose of the committee in charge of this bill, but I must hesitate to vote for a bill containing such a provision as that which my amendment seeks to eliminate. [Applause.]

Mr. DENISON. Mr. Chairman, of course, I can not answer the gentleman from Virginia [Mr. MOORE], but I can explain the reason why we have put this provision in the bill.

We are now imposing duties—heavy duties—on the Interstate Commerce Commission. Congress has from time to time passed legislation supplementary to or amendatory of the interstate commerce act, and all such work incidental to the administration of those acts has been piled upon the Interstate Commerce Commission. We authorized in the transportation act the creation of a number of divisions and the commission has assigned the duties under the various statutes to these various divisions. Every one knows that the Interstate Commerce Commission is very much overworked. The committee has given this matter very careful consideration, and we have decided that we would try out this plan to authorize the commission to refer matters arising under this act to one member of the commission or to an examiner and let him make the investigation and conduct the hearings—he has that power under the act—and let him make a recommendation in the form of an order. Now, the examiner or member appointed for that purpose occupies the same status under the bill as the joint boards. When an order is made the commission may vacate or suspend it if it chooses, and, upon complaint from anyone, of course, there will be allowed a review or a rehearing or such other action as the commission may desire to take; if a matter is decided by the commissioner or a member or a joint board, if it involves an important question, if it is controversial, and any party is not satisfied with the decision of the commission or the examiner or board, the decision will be reviewed.

Now, as I say, we have undertaken to try out this plan in this act. If it is found to work satisfactorily, I have no doubt that Congress will extend its application to other acts, the administration of which we have reposed in the Interstate Commerce Commission.

Mr. LEA of California. Mr. Chairman, will the gentleman yield there?

Mr. DENISON. Yes.

Mr. LEA of California. Is it not a fact, so far as men of experience are concerned, that this examiner will be in the same position as a member of the commission who may be inexperienced when he takes his job, but who in the course of time may become an expert?

Mr. DENISON. Yes. I think with the enactment of this law the commission will appoint examiners of high character. These examiners will occupy very much the same position and exercise pretty much the same functions as masters in chancery in courts of equity. Masters in chancery are appointed by the courts to take evidence and make a finding and recommendation to the courts.

We are following somewhat the same plan in the enactment of this law.

Mr. HASTINGS. Can the gentleman state how many examiners there are in the Interstate Commerce Commission?

Mr. MOORE of Virginia. There are dozens.

Mr. DENISON. I think there are more than that.

Mr. MOORE of Virginia. Possibly in years gone by I have had more contact with the Interstate Commerce Commission than anyone here. I have formed a high opinion of many examiners with whom I have had business, but I know that almost constantly new men are appointed to that position, and I am not willing, in dealing with this important matter, to conjecture that the commission is always going to select the most mature and experienced and capable men.

Mr. DENISON. Very often new men are appointed as members of the commission. So that argument of the gentleman from Virginia is not very sound, it seems to me.

I might say in conclusion, Mr. Chairman, and I want to say to my friend from Virginia [Mr. MOORE], that if he should talk with the members of the commission, he would find that they approve of this plan.

Mr. MOORE of Virginia. I have examined with some care the elaborate report made by the commission in 1928 after investigating this whole subject, which concludes with a great number of recommendations and suggestions. There is not one solitary word in it with reference to this proposal about examiners.

Mr. DENISON. Since then members of the commission have indicated that this plan meets with their approval. I think we can well afford to try out this plan in the administration of this act. It may furnish us a valuable experience to guide us in future legislation.

Mr. PARKER. Mr. Chairman, I move that all debate on this amendment close in five minutes.

The motion was agreed to.

The CHAIRMAN. The gentleman from South Carolina [Mr. MCSWAIN] is recognized for five minutes.

Mr. MCSWAIN. Mr. Chairman and Members of the House, it is not a question of who does the work. It is not, as the gentleman from Illinois says, that an examiner is in the category of State commissioners or State representatives who are called in to constitute the joint board. The members of the State commission have official responsibility, both political and official responsibility, whereas an examiner is a mere clerical functionary with no official responsibility.

Mr. HOCH. Will the gentleman yield?

Mr. MCSWAIN. I yield.

Mr. HOCH. The bill does not confine it to members of State commissions; but they may designate anyone, even though they are not official at all, to represent the people.

Mr. MCSWAIN. Exactly; but he is representing his State, and in that respect he does have official responsibility.

I will concede that as a matter of fact, I even suspect 90 per cent of the work will be done by the examiners, and even if the amendment of the gentleman from Virginia prevails, and if we strike out the power of the examiners to finally pass an administrative order, the commissioner will sign many orders of whose contents he will have no personal knowledge. However, that is true of the President of the United States. We have imposed upon the President 10,000 duties for which he has official responsibility. He appoints all of the hundreds of thousands of civil-service employees. He appoints the officers of the Army and the Navy. He appoints the postmasters. But, while he does not know who is named in the commission, he has official responsibility, and we can call somebody to account.

Now, here, we propose to have a mere examiner, under civil-service status, act in the solemn official position of a judge among the people of the country and the people of the States. I submit that is going too far.

Mr. BURTNESS. Will the gentleman yield?

Mr. MCSWAIN. I yield.

Mr. BURTNESS. Does the gentleman concede that if the proposed amendment is adopted it would prevent an examiner from going out and holding hearings?

Mr. MCSWAIN. Not at all. It would not.

Mr. BURTNESS. Then the gentleman should consider it carefully in that respect, because the language now provides that this matter, by order of the commission, may be referred for hearing to any member or examiner of the commission. Now, if the words "or examiner" are stricken out and the words "may be referred for hearing to any member of the commission" are left, it will absolutely foreclose the commission authorizing an examiner to even go out and hold hearings.

Mr. MCSWAIN. No, indeed. Whatever an examiner may do under the language as it will remain, if the amendment be adopted, will be in the status of an examiner under the existing transportation act with reference to railroads. In other words, he will be acting in the name of and by the authority of and under the power of the commission itself.

Mr. BURTNESS. Where does the gentleman find language to that effect?

Mr. MCSWAIN. Oh, that is the common law.

Mr. BURTNESS. The Interstate Commerce Commission law?

Mr. MCSWAIN. Yes; the same as when my secretary signs my name a dozen or more different times each day.

Mr. Chairman, I think we should go slowly in this matter of transferring at one fell swoop all matters relating to the carrying of passengers over State lines to the Federal Government and to the Interstate Commerce Commission. It is a very different situation from the railroads. The railroads acquired their rights of way and built their own tracks, and the general public has no rights upon their tracks. But the highways have existed, some of them for hundreds of years, and are the property of all the people. These highways have been improved largely at the expense of the States and local subdivisions of the States. I believe that 90 per cent of the money that has been spent in building hard-surface roads and in building substantial wide bridges has been furnished by the States or the counties or the highway districts.

Now, if we transferred all jurisdiction regulating the carrying of interstate passengers by motor vehicles to the Federal Government, we will be bringing about a very radical and far-reaching change, and one for which the people are not yet prepared. For that reason I have favored such amendments as have been offered by the gentleman from Oklahoma [Mr. HASTINGS] to give the control of these matters to representatives of the States involved, acting as Federal agents, and to make their decision and judgment final and not reviewable by the Interstate Commerce Commission. It is a very common-sense argument in support of this proposition.

If we adopt this legislation, and if some of the imaginary and theoretical objections which have been urged against it become true and are realized, and if the public demands that we remove these obstacles and objections, we can very easily amend the law. But if, on the other hand, we, by one act, transfer all jurisdiction to the Interstate Commerce Commission, we will never be able to recall it. Of course, theoretically, we have the power to repeal that law and restore it to the States, but, as a matter of fact, we know the all-absorbing, centripetal power of these Federal bureaus and commissions. We know that their history is a constant increase, expansion, and enlargement of power. In no instance has there ever been a shrinking, lessening, or reduction of power.

I propose to offer amendments to prevent the removal from State courts to the Federal courts of any suit brought in a State court against one of these interstate carriers doing business in or through a State. I predict—and the history of the railroads, express companies, telegraph companies, and telephone companies are my unimpeached witnesses to prove that my prediction will come true—that these persons, firms, and corporations now operating interstate busses will all be incorporated and operate under some charter issued by a foreign State, such as Delaware or Rhode Island. Recently, while in the capitol of Delaware, I noticed a large force of clerks working late at night in the office of the secretary of state.

Being amazed by this unusual sight, and being accustomed to seeing Government clerks in Washington grab their hats and pocketbooks at 4.29 p. m., I was prompted to ask what this unusual sight could mean. I thought maybe the clerks were making up for some time they had lost on account of fire or storm. But I was informed that at this season of the year it occurs every night. Clerks are paid overtime to stay and get out charters for corporations being incorporated under the accommodating laws of Delaware, to do business in other States. I was informed that they are grinding out scores of charters every day, and maybe hundreds.

That is sure to happen with the bus business. When the bus franchises become very valuable under the provisions of this law, and when they shall be required to take out indemnity insurance so as to protect their passengers and the public, then the question of civil liability for such damages will become very acute. To meet this situation these carriers of passengers by motor vehicle will incorporate their concerns under the convenient laws of a distant State. Then when a passenger is injured or when the vehicle injures a pedestrian on the highway, or collides with another motor vehicle, damaging its passengers, or kills the farmer's livestock, or runs over the farmer's child as the child is passing from the house to the barnyard on the other side of the highway, and when the injured person files suit in the State court, which has been the forum of the people for hundreds of years, the bus corporation will appeal in the State court with a petition and bond for the removal of that court into the Federal court. Under the existing law such removal will be mandatory, and when the case is removed to the Federal court, the Federal judge will not send it back to the State court.

When the case comes to trial in the distant Federal court, the complaining party will find himself confronted with strange rules of procedure, strange rules of evidence, a strange judge, strangers on the jury, and strange principles of law, governing the responsibility of carrier to passengers and of busses using a State road as an interstate highway. Based upon a rather varied experience and long observation, I am prepared to predict that the shrewd and powerful bus corporations, being able to employ the most expert legal talent and having abundant expense money, to conduct all the auxiliary and incidental activities of a trial, will win out in most of the cases, and injured

persons will be baffled, discouraged, and finally induced either to drop their cases or settle them for insignificant sums.

As the bus corporations become more powerful and feel themselves protected by Uncle Sam's all-powerful courts, they will become more arrogant in their conduct upon the highways. Already many of these busses are so large that they take up more than half of the paved surface, and avoid getting very near to the right edge of the pavement. Other vehicles coming in the opposite direction are endangered but must stop, or slow up, and perhaps turn out to accommodate the bus. The reason is that the bus is heavy and can not be overturned by impact with a light passenger car, and does not mind having a little paint knocked off. The individual automobilist, traveling in his light family car, and having a pride in preserving the paint, desists from a collision with the bus, even when the bus is manifestly encroaching far beyond its own side of the road.

When the rich corporations and railroad companies shall own and operate these interstate busses, then they will be heavier and larger and perhaps wider, and the citizens of the very communities and counties that have built the roads, first by their own hands and labor and later have hard surfaced them with tax money drawn from their own pockets, will be partially driven from the use of the road, and will certainly have their free use of the highways hampered.

I greatly fear that the provisions of the bill, even after being amended by the Mapes amendment, will prove very unsatisfactory to our people. I think it is a manifestation of concentration and federalization gone mad. I think that we should go more slowly. It is true that some control based upon congressional action is necessary to protect the public using or coming in contact with these interstate bus lines. Under the decision of the Supreme Court of the United States these interstate bus lines are now absolutely without any regulation whatsoever. Therefore, it is desirable that Congress should exercise its constitutional power to regulate these interstate bus lines, but it should exercise that power by creating joint boards representing the States at interest and we should proceed step by step and perhaps year after year in the conservative and reasonable improvement and amendment of this small beginning. The bill before the House is all comprehensive in its scope.

By one mighty stroke it strikes down all State control and State authority and transfers from every nook and corner of the Nation the power to regulate these interstate bus lines to the Federal Interstate Commerce Commission. This is a far-reaching act. Under the numerous and explicit decisions of the Supreme Court of the United States construing the constitutional power of Congress to regulate interstate commerce, that regulation can apply not only to the vehicle employed to carry on interstate commerce but can apply to the highway upon which that commerce passes and to every agent, instrumentality, and action connected with the general business of interstate commerce. Therefore the next step we may expect will be an amendment to this law giving the Interstate Commerce Commission the power to make rules governing the use of the road. We may expect under this power the Interstate Commerce Commission to prescribe how private passenger cars carrying the owner and his family for an airing Sunday afternoon may use a highway that the great-grandfather of this citizen helped lay out and to open up and keep in repair with his own labor 150 years ago. In like manner the grandfather and the father and this citizen have been contributing labor, material, and money from their own resources to keep this highway in condition to travel.

They have contributed 90 per cent of the money to put the hard surface on this road. Now comes the Interstate Commerce Commission, situated 3,000 miles from the neighborhood through which the road passes, and tells this citizen of the State of California or of the State of Washington how he shall be permitted to use the road. This citizen understands that he must use the road in the manner prescribed by the statutory and common law of his State, but he will resent being dictated to by a commission at Washington telling him how he shall use his own road. Every bus driver will be subject to Federal regulations and not to State regulations. Every local agent of an interstate bus carrier will be a Federal agent and not a State agent. The kind of brakes to be used, the kinds of fenders to be used, the rate of speed, and the thousands of other details will be regulated from Washington and not between States. The highways will swarm with uniform Federal inspectors and Federal patrolmen, assuming arrogant and arbitrary attitudes and moods. The State inspectors and State rural police will be shunted to the background. All the use of the road will be subordinated to the superior law of the Interstate Commerce Commission.

Furthermore than that, in a very few years there will not be a single bus line in any of the States that will be subject to the absolute authority of the States and of the State regulatory bodies. It is true that the bill as it will stand amended will by so many words preserve to the States the regulation of purely intrastate carriers; but in a few years there will be no purely intrastate carriers. These merely local and intrastate carriers will seek the protection and the benefits of this Federal act. In order to do this they will be taken over as subsidiaries and affiliated corporations of the big interstate lines. They themselves, these local, intrastate lines, will take out a charter under the law of a distant State. They will affect a fictitious and pretensive connection with the main interstate lines. Then they will appeal to the Supreme Court of the United States under its decisions to hold and regulate them as parts of the entire nation-wide system of interstate commerce. Under its decisions the Supreme Court will find it an easy step to have the Federal system of carriers by bus gobble up and swallow, boot and baggage, the entire motor-bus business.

Then, where will the intrastate bus line be? Then, where will the power of the States be? Then, what will be the answer of those who now insist that this bill in all of its comprehensive and sweeping terms should be enacted into law? I hope that I may prove to be a false prophet, because it seems that this Congress is determined to surrender the last vestige of State power. I should prefer to prove to be a false prophet than to witness the miserable and servile conditions that my prediction enumerates. But my prediction is based on my judgment, and my hope has no foundations save love for the principle of local self-government and of the right of the people to regulate their own domestic affairs. Therefore, Mr. Speaker, I must insist on the amendments that I offer, and must warn my friends that they are going too far with this bill. I sincerely hope that the Senate will limit the sweeping and dangerously broad provisions of this bill.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

The question is on the amendment offered by the gentleman from Virginia [Mr. MOORE].

The question was taken; and on a division (demanded by Mr. MOORE of Virginia) there were—ayes 22, noes 79.

So the amendment was rejected.

Mr. DENISON. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Illinois [Mr. DENISON] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. DENISON: Page 8, lines 1, 2, and 3, after the word "control," strike out "complaints as to violations by common carriers by motor vehicle of the requirements established under section 2 (a) (1)."

Mr. DENISON. Mr. Chairman, I offer this amendment for the purpose of giving the House an opportunity to vote upon the question of whether it should be compulsory in all cases to refer all of these minor complaints as to service to joint boards. That is a matter that was discussed at length by Mr. HOCH, and I do not care to repeat what he said. But in the administration of this act there are certain major questions, such as whether a certificate of convenience and necessity should be issued to the carrier who applies for it, or whether a certificate once issued should, under circumstances arising, be canceled, or some change made in the certificate; also questions of rates, fares, and charges, and other questions enumerated in section 8, that have to be referred to the joint board; questions of consolidations, mergers, and acquisitions of control. Those are all major questions, as I would designate them, that perhaps should be referred to the joint boards, if we are going to have them. But there are a great many minor or unimportant questions——

Mr. MOORE of Virginia. Will the gentleman yield?

Mr. DENISON. I yield.

Mr. MOORE of Virginia. I did not understand the language of the amendment offered by the gentleman, and I ask him to enumerate the matters which the board is not allowed to refer to.

Mr. DENISON. I was about to do that. The amendment simply has the effect of not requiring the commission to refer to the joint boards one of the classes of things which are enumerated in section 8, namely, complaints about violations by common carriers by motor vehicle of the requirements established under section 2 (a) (1). If you will turn to that section, it reads:

(a) It shall be the duty of the commission—

(1) To supervise and regulate common carriers by motor vehicle as provided in this act, and to that end the commission may establish reasonable requirements with respect to continuous and adequate service at just and reasonable rates, a uniform system of accounts and reports, qualifications and maximum hours of service of em-

ployees, safety of operation and equipment, comfort of passengers, and pick-up and delivery points whether on regular routes or within defined localities or districts.

When any one of those questions arise in the case of a motor operator who operates between two or three States, the commission has no discretion. It can not settle the controversy itself. It can not decide it. If it should attempt to do so it would be acting ultra vires. It must create a board to settle it. [Applause.]

Mr. HOCH. Will the gentleman yield?

Mr. DENISON. I yield.

Mr. HOCH. Would it leave it optional with the commission to refer these matters to which the gentleman has referred in any case? Suppose, for instance, only two States were involved, would it still be possible for them to refer it in that case, or does the amendment make it impossible in any case to refer it?

Mr. DENISON. I think these minor matters might be disposed of by the commission instead of creating a joint board.

Mr. HASTINGS. Certainly you make it impossible, because you eliminate subsection (d).

Mr. HOCH. As I understand it, it says "the commission shall refer the following matter," and the gentleman's amendment is to strike out one of those matters. The question I raise is would it still be optional to refer such matters to the joint board?

Mr. DENISON. They could do it, but they do not have to.

Mr. MAPES. As I understand it, the amendment offered by the gentleman would take away from the jurisdiction of the joint boards all matters referred to on page 4, section 2, paragraph 1.

Mr. DENISON. Yes; it would take away compulsory jurisdiction.

Mr. MAPES. It would, in effect, take away from the joint boards all matters arising out of the operation of the busses.

Mr. DENISON. No; the gentleman misreads it. Section 2 (a) provides that:

It shall be the duty of the commission (1) to supervise and regulate common carriers by motor vehicle as provided in this act, and to that end the commission may establish reasonable requirements with respect to continuous and adequate service at just and reasonable rates—

And so forth. Now, I am striking out the requirement that it must refer to the joint boards complaints as to those things, and the only change is in the compulsory part of the bill. In other words, if my amendment is adopted, as I understand, the commission is not required to refer all those complaints to the joint boards.

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

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

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

There was no objection.

Mr. DENISON. Suppose there is a motor carrier operating between three States and some passenger makes a complaint about the comfort of a car? Are we going to pass legislation which will prevent the commission from deciding that complaint itself and correcting it? Are we going to pass legislation that will require the commission to create a joint board to consider the question of the comfort of a coach?

Mr. BURTNESS. Will the gentleman yield?

Mr. DENISON. Yes.

Mr. BURTNESS. I am thoroughly in sympathy with the gentleman's general proposition. I think there are a number of those minor things which should be eliminated from consideration by joint boards, but I am seriously concerned with the question as to whether or not section 2 (a) (1) does not include much more than minor matters. For instance, the one the gentleman referred to first relative to the requirement with respect to continuous and adequate service at just and reasonable rates. That is not a minor thing; that is a major thing. The next two or three are rather minor. Then we come to the last one:

And pick up at delivery points whether on regular routes or within defined localities or districts.

The gentleman, I think, will recall the discussion in the committee to the effect that that was one of the features which belonged particularly to the joint boards and was one of the questions which they should particularly consider. I would be inclined to vote with the gentleman if he is absolutely certain that his amendment would still leave it discretionary with the commission to refer such matters to the joint boards, but I am not quite clear as to whether the gentleman is right without being able to refer us to other provisions of the bill.

Mr. DENISON. That was my thought. Mr. Chairman, may I ask the chairman of the committee if we must settle this matter to-night?

Mr. PARKER. Yes; I want to finish this section to-night.

Mr. DENISON. I am anxious to perfect this bill, but, since we have enlarged the joint board requirement, I do not think we should require these minor matters to be referred to the joint boards.

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

Mr. STAFFORD. Mr. Chairman, I rise in opposition to the amendment. This amendment goes to the very vitals of the Mapes amendment. I am not surprised that the author of this amendment has proposed it, as he is an opponent of the policy to delegate authority to joint boards; but the gentleman from Michigan [Mr. MAPES] and the gentleman from North Dakota [Mr. BURTNESS], who favor extending joint boards to questions arising between three States, are not in favor of this amendment.

What does it do? It takes away from the joint boards those matters which are better controlled and supervised by the joint State boards.

Do you mean to tell me that an examiner, a bureaucrat, as I designated him the other day, in Washington is better able to determine the character of the service in the West, the far West, the Northeast, or any other district of the country, than the representatives of the utility commissions acting in concert on a joint board? Are we in Wisconsin and Minnesota to have an examiner determine our rates or the reasonable character of the rates based upon the amount of traffic? Are we to leave it to an examiner to say what the character of the service shall be and how frequent it should be?

The purpose of this committee in adopting the Mapes amendment the other day so overwhelmingly was to leave it to these joint boards, composed of one man from each of the utility commissions of the respective States concerned, and yet you are now proposing to tear out the very vitals of local regulation.

The amendment should be defeated, so that we may continue with a policy in harmony with the Mapes amendment. [Applause.]

Mr. DENISON. Mr. Chairman, I desire to ask the chairman of the committee if he will permit me, after further consideration of the matter, to go back to this section to-morrow and offer a modified amendment? It may be that my amendment accomplishes more than I intended it to accomplish. After having a conference with the legislative counsel, I would like to have the privilege of perhaps going back to it and offering an amendment in a modified form. In the meantime, I will withdraw the amendment by unanimous consent, if I can get it.

The CHAIRMAN. The gentleman from Illinois asks unanimous consent that the amendment, which he has offered and which is now pending may be withdrawn. Is there objection?

There was no objection.

Mr. PARKER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MICHENER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 10288) to regulate the transportation of persons in interstate and foreign commerce by motor carriers operating on the public highways, had come to no resolution thereon.

INLAND WATERWAYS AND THE 9-FOOT CHANNEL ON THE UPPER MISSISSIPPI

Mr. SNELL. Mr. Speaker, I ask unanimous consent that the gentleman from Minnesota [Mr. NOLAN] may be permitted to address the House for two minutes.

The SPEAKER. The gentleman from New York asks unanimous consent that the gentleman from Minnesota [Mr. NOLAN] may address the House for two minutes. Is there objection?

There was no objection.

Mr. NOLAN. A great constructive program is before this Government in the development of our inland waterways systems along modern lines so that they may be effective and economical commercial highways.

Part of the program is completed, the next most important step is the immediate authorization of a 9-foot channel on the upper Mississippi.

The development of our inland waterways has been the subject of much discussion in and out of Congress. Out of these discussions has come the mass of facts and figures which has molded public opinion for the immediate development of a com-

prehensive and unified system of internal waterways. President Hoover sensed this aroused public interest when he said in his Louisville speech:

The American people, I believe, are convinced. What they desire is action, not argument.

Nor is a definite and comprehensive plan lacking. Grounded upon engineering knowledge, the Mississippi Valley Association, representing the great Mississippi Valley, joins with President Hoover in the accomplishment of a program which calls for the creation of navigable channels of at least 9-foot depth and of suitable widths in the Missouri, the upper Mississippi, the Illinois, the Tennessee and Cumberland, the Coosa, Alabama, the Chattahoochee, and probably the Arkansas and Red Rivers, wherever there is sufficient water to support 9-foot navigation; and the development of the intracoastal canal from Corpus Christi to the Appalachicola and the trans-Florida canal to a connection with the Atlantic coast deep waterways system. With the lower Mississippi and the Ohio already in use, this comprises a system of standard connected waterways 7,000 miles long, commercially navigable throughout its length.

To carry forward all these great works is not a dream of the visionaries—

Says President Hoover—

it is the march of the Nation.

What does the completion of such a program mean to our Nation, and why is it a matter of national concern? At the outset it should be stated that our navigable streams are national highways, open to the public as free arteries of commerce. No one but the National Government may improve them and no one, not even the Nation itself, may ever charge a toll for their use. They require, throughout the greater part of their length, improvement in order to make them commercially navigable. They are generally subject to marked fluctuation in depth, which requires regulation. In some instances the water supply must be conserved. In others the problem is one of guarding against the destructive effect of floods. Effective work of regulation costs money which the Nation must spend.

A system of internal waterways, such as above outlined, when completed will traverse 22 States and, in connection with and as a part of the internal transportation system of our country including railroads and highways, will move commerce between all parts of the United States and traffic with the world at large.

We assert that the development of our inland waterways system is of national benefit as a belated part of a program begun with the construction of the Panama Canal, calculated to greatly cheapen the cost of transportation between the States and with foreign nations. The completion of the Panama Canal at a cost of $350,000,000 brought the cities of both the Atlantic and Pacific coasts and their adjacent territory into contact with one another at costs never before accomplished by other means. This partially completed program has not given to the central part of the country the same benefit of cheap transportation but on the contrary has operated to its disadvantage in competition with the more favorably located sections. The farther we are removed from the sea coast, the greater our handicap in this respect. This landlocked section must have cheap water transportation and through this access to the markets of the world if its agriculture and industry is to have a fair chance to develop and prosper equally with similar activities in this and other nations. Now, by the completion of this inland waterways system we bring the cities of the Ohio, Mississippi, Illinois, and Missouri Valleys again in close contact by water with New York, San Francisco, Seattle, and the markets of the world. What was commenced by President Roosevelt remains for President Hoover and this Congress to complete.

Thus we bring the entire Nation and all of its States in close communion with each other to the mutual benefit of all. The money spent in the development of the Panama Canal was contributed by all of the States and the interior has never wavered in its adherence to this program of cheapened transportation thus begun. What it now asks is the early completion of this entire system supplementing the Panama Canal with a completed system of modernized inland waterways so that the Nation as a whole will be benefited.

The annual national budget is about $4,000,000,000. Approximately 75 per cent is allotted to what is now termed "preparedness"; that is, the Army, Navy, Veterans' Bureau, and pensions. I do not question the wisdom of these expenditures. An adequate Army and Navy is essential, and the debt we owe to the men who served their country in time of need is a sacred obligation. Necessary as these expenditures are, they do not represent what might be called a permanent investment. Future budgets must meet these fixed expenditures and probably increased amounts for this purpose.

Unlike our expenditures for preparedness, the Nation's investments in the improvement of our waterways are a permanent asset. It is a capital investment. Witness the Panama Canal with its tonnages increasing to such an extent that we are told that before the new canal can be built across Nicaragua the waterway at Panama will have reached or exceeded its carrying capacity. Likewise, a system of rivers and lakes once permanently improved is available for transportation for an indefinite period. Time has not yet run sufficiently to measure the durable value of such improvements in the United States. We know that many of the rivers and canals of Europe have been in beneficial use for over a century.

The financial position of the country would seem to justify this program now. As I have stated, the average annual budget is roundly $4,000,000,000. Assuming a maximum cost of five hundred million for the completed program, this would require for the next five years an annual budget expenditure of not to exceed 2½ per cent. Then the country would own 7,000 miles of the most modern river highways in existence, and they would be there adding to the public wealth and convenience for a hundred years or more.

We submit that the prosperity of the Mississippi Valley, the greatest producing area in the world, is a matter of national concern. It is the broadening of the outlets of this region, so hampered by distances, that we have in mind. Most cursory examination of the location of world areas given over to the production of surplus food products amply demonstrates an urge for such outlets. The average distances from tidewater of the great wheat lands of Argentina is less than 200 miles. This is true of India; of southern Russia; the distance is even less in Australia; and Russia at least is served throughout this area by the cheapest form of water transportation. The average distance of the great surplus-producing area of the Mississippi Valley by rail either to the Atlantic or the Gulf coasts of the United States is at least 1,000 miles.

One of the important factors in our present farm problem is the excessive transportation costs in reaching the seacoast with farm products. Whatever present measures of farm relief may accomplish, unless they are augmented by some cheapening of the transportation costs of farm products to tidewater, they can never accomplish that relief which this Congress as well as previous ones has been striving to provide.

These convictions which we express are forcibly corroborated by the recent findings of the special board of United States Engineers, recently appointed to survey the upper Mississippi River. In their report just submitted to this session of Congress, in House Document No. 290, this board declared:

The situation in the upper Mississippi Valley is peculiar. This great inland domain, as large as the European nations of Germany, France, Italy, and Great Britain combined, is distinctly agricultural.

The postwar increase in rail rates has forced this area, which annually produces over a billion bushels of grain and exports nearly 100,000,000 bushels, to do its marketing almost entirely through one market.

The construction of the Panama Canal reduced the cost of transportation from coast to coast. The intercoast water rate now is less than the rate by rail from the central United States to any seaport. This virtual increase of the distance from the farm to seaports is further aggravated by the recent rapid increase in rail rates. Should the Mississippi be developed to the proportions of a trunk stream throughout, it would tend to equalize the competition between our inland States and the agricultural regions of other countries more advantageously located near the oceans.

One of the most essential uncompleted sections of this national system of inland waterways is the Mississippi River from the mouth of the Illinois River to the head of navigation at Minneapolis. In the early days commerce of the upper Mississippi Valley was carried on the river, and for a generation the logs of the northern forests rafted down this stream built the cities of the plains. With the advent of the railroad, however, the trend of commerce was gradually diverted from North and South to East and West, and the Civil War almost completely severed commercial relations between the North and the South. This was at the time when we were entering upon an intensive program of railroad construction and is one of the principal reasons why our trunk rail lines were built east and west and the trend of commerce, as I have said, was turned to the East. While several subsequent efforts were made to revive river transportation on this river, no real effort was made to improve the channel, or modernize river terminals and the railroads refused to make joint rates, all of which the Seventieth Congress

declared to be fundamentals of successful river transportation. There was money to be made by private capital in improving railroad transportation. No one but the Government was permitted to improve the means of transportation on the Mississippi River. Therefore, river transportation died in the intensive struggle with the newer commercial enterprise of railroad transportation. While the railroads are essential to our welfare, and always will be, conditions over which they have no control have made it necessary to increase their rates to a level where it is no longer possible for this area, so remote from the sea, to successfully market its products by railroad means alone in competition with the more favorably located areas of this and other countries.

What is the need of an authorization for a 9-foot channel in the upper Mississippi River by this Congress? There is no more forceful way of presenting this case than to repeat the language of the Special Board of Engineers, appointed to study and report upon the development of this particular division of the trunk line inland waterway system in their report, House Document No. 290. They say:

Modern towing methods were being evolved on the Ohio, but the change of project which brought a favorable improvement of that river has failed to appear on the upper Mississippi. The present 6-foot project and the methods of prosecuting it were designed to aid types of river trade which have become obsolete; the project is certainly inadequate for present needs. The people of the upper Mississippi valley desire the improvement of the river to the dimensions of a trunk-line stream so that cargoes loaded at Minneapolis, St. Paul, or other river points may proceed to New Orleans or other points on the lower Mississippi or Ohio without breaking bulk; and similarly that upstream traffic may not be hampered by the transfer from the large lower-river barges to the smaller barges used above at an intermediate terminal which is at present necessary. In fact, they are looking for a new trunk-line route to the Gulf and to Central, Eastern, and Southern United States, not only to relieve a difficult local situation, but as a matter of national benefit. An intermittent line useful to cities immediately adjacent to the river for short hauls only, as allowed by the present project, is of but minor benefit.

Perhaps the most far-reaching result of the service north of St. Louis has been to convince operators and users of the certainty of success which would accompany extension of a modern river service to the upper Mississippi River improved to proportions accommodating economical trade.

It is the opinion of the board that the present channel is not adequate to build up a commerce which will justify the necessary expenditures upon it for completion and maintenance.

Equally illuminating are the following excerpts from the report which are predicated largely upon the board's experience with the development of the Ohio River:

Just 21 years ago the same question which is now before this board for recommendation for the upper Mississippi River was before an Ohio River board. At the time the Ohio River 9-foot survey was ordered by Congress (1905) a number of locks and dams were already under construction, with a view to securing a channel 6 feet deep at low water. Pending the final report of the board, presumably from advance information received from its partial studies, Congress authorized a change from a 6 to a 9 foot project. In its report of 1908 the Ohio River board found the cost of long-haul transportation on 5½-foot draft to be 50 per cent greater than on an 8½-foot draft.

All together, from its own studies and those of the towboat board, of which two members of this board are also members, this board is convinced that a real improvement of the upper Mississippi must provide for channel dimensions which will correspond in all respects to Ohio River or better standards.

At this point I want to state that I represent a congressional district which embraces a large metropolitan area. It is not directly agricultural, but its interest, like that of every similar community, is closely linked with and dependent upon the prosperity of the surrounding country, which is primarily agricultural. In this, my district, the same as every other like district, it is clear that when agriculture languishes, trade and industry inevitably feel the depressing effects.

The need for this authorization now is essential to carry forward President Hoover's policy and program so admirably stated at Louisville last October. He said:

We should complete the entire Mississippi system within the next five years.

The upper Mississippi is an essential part of that system. To carry forward his program and give effect to his policy, this Congress should authorize this project at this session.

It is not inappropriate to here restate the pertinent portions of the platforms of the two great national parties. At the last Republican convention, at Kansas City, the Republican Party declared:

The Republican administration during the last four years initiated the systematic development of the Mississippi system of inland transportation laws; it proposes to carry on this modernization of transportation to speedy completion.

Shortly thereafter at Houston our Democratic friends wrote into their platform this declaration:

We favor the fostering and building up of water transportation through improvement of inland waterways and removal of discrimination against water transportation.

These declarations were supplemental and complementary to the measured declarations of both parties in favor of agriculture. Now we come to the fulfillment of the hopes of the people of our section from these public pledges. President Hoover has declared these improvements to be a fundamental domestic policy of his administration; the United States Army Engineers outlined clearly what must be done; it remains for this Congress to set the plan in motion.

The city of Minneapolis, which I have the honor to represent, will be immeasurably benefited by the improvement. Not only Minneapolis but St. Paul and every other city on the upper river will find that when this project has been authorized and we know definitely that the upper Mississippi will be improved in keeping with the lower Mississippi and the Ohio there will be an encouragement to new industries and a stimulation of established industries that will bring prosperities to a section that for so long has been struggling against adverse condition and unfair discrimination in transportation costs.

I have tried to show, however, that this development is of more than local interest, that the Nation as a whole will be benefited as well as the territory directly affected.

The engineers have shown that the present 6-foot project is inadequate and valueless so far as continuous river traffic is concerned. It is like building a railroad part standard gage and part narrow gage.

I have also endeavored to prove that this improvement means genuine farm relief in giving to the agricultural producers of the Middle West the benefit of cheap transportation.

The report of the special engineers, though not complete, is still comprehensive enough and furnishes sufficient data to warrant immediate action on this project. [Applause.]

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S. J. Res. 69. Joint resolution authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, Edmundo Valdez Murillo, a citizen of Ecuador;

S. J. Res. 72. Joint resolution authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, two citizens of Honduras, namely, Vicente Mejia and Antonio Inestroza;

S. J. Res. 100. Joint resolution authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, of Godofredo Arrieta A., jr., a citizen of Salvador; and

S. J. Res. 107. Joint resolution authorizing the Secretary of War to receive, for instruction at the United States Military Academy at West Point, Señor Guillermo Gomez, a citizen of Colombia.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President for his approval a joint resolution of the House of the following title:

H. J. Res. 205. Joint resolution to provide for the expenses of participation by the United States in the International Fur Trade Exhibition and Congress to be held in Germany in 1930.

ADJOURNMENT

Mr. PARKER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 54 minutes p. m.) the House adjourned until to-morrow, Friday, March 21, 1930, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Friday, March 21, 1930, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON THE DISTRICT OF COLUMBIA—SUBCOMMITTEE ON STREETS, AVENUES, AND TRAFFIC

(10.30 a. m.)

To provide for the revocation and suspension of operators' and chauffers' licenses and registration certificates; to require proof of ability to respond in damages for injuries caused by the operation of motor vehicles; to prescribe the form of and conditions in insurance policies covering the liability of motor-vehicle operators; to subject such policies to the approval of the commissioner of insurance; to constitute the director of traffic the agent of nonresident owners and operators of motor vehicles operated in the District of Columbia for the purpose of service of process; to provide for the report of accidents; to authorize the director of traffic to make rules for the administration of this statute; and to prescribe penalties for the violation of the provisions of this act, and for other purposes (H. R. 4015).

COMMITTEE ON MILITARY AFFAIRS

(10.30 a. m.)

To consider legislation concerning the establishment of national military parks.

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To authorize the Secretary of the Navy to proceed with the construction of certain public works at the navy yard, Philadelphia, Pa. (H. R. 10166).

COMMITTEE ON BANKING AND CURRENCY

(10.30 a. m.)

To consider branch, chain, and group banking as provided in House Resolution 141.

EXECUTIVE COMMUNICATIONS, ETC.

374. Under clause 2 of the Rule XXIV, a letter from the Secretary of War, transmitting draft of a bill to authorize the acquisition of certain land for the proper defense of the Atlantic coast, was taken from the Speaker's table and referred to the Committee on Military Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. SMITH of Idaho: Committee on Irrigation and Reclamation. H. R. 1186. A bill to amend section 5 of the act of June 27, 1906, conferring authority upon the Secretary of the Interior to fix the size of farm units on desert-land entries when included within national reclamation projects; with amendment (Rept. No. 947). Referred to the House Calendar.

Mr. COLTON: Committee on the Public Lands. H. R. 8163. A bill to facilitate the administration of the national parks by the United States Department of the Interior, and for other purposes; with amendment (Rept. No. 948). Referred to the Committee of the Whole House on the state of the Union.

Mr. SIMMS: Committee on the Public Lands. H. R. 9895. A bill to establish the Carlsbad Caverns National Park in the State of New Mexico, and for other purposes; without amendment (Rept. No. 949). Referred to the Committee of the Whole House on the state of the Union.

Mr. NOLAN: Committee on the Public Lands. H. R. 9934. A bill providing for the sale of timberland in four townships in the State of Minnesota; without amendment (Rept. No. 950). Referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, the Committee on Invalid Pensions was discharged from the consideration of the bill (H. R. 1479) granting a pension to Mathilda H. Byrnes, and the same was referred to the Committee on Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CABLE: A bill (H. R. 10960) to amend the law relative to the citizenship and naturalization of married women, and for other purposes; to the Committee on Immigration and Naturalization.

By Mr. CAMPBELL of Iowa: A bill (H. R. 10961) to amend section 23 (c) (3) of the revenue act of 1928, as amended; to the Committee on Ways and Means.

By Mr. HAWLEY: A bill (H. R. 10962) authorizing the adjustment of the boundaries of the Siuslaw National Forest, in the State of Oregon, and for other purposes; to the Committee on the Public Lands.

By Mr. JENKINS: A bill (H. R. 10963) to amend an act entitled "An act making it a felony with penalty for certain aliens to enter the United States of America under certain conditions in violation of law," approved March 4, 1929; to the Committee on Immigration and Naturalization.

By Mr. McCLINTIC of Oklahoma: A bill (H. R. 10964) for the relief of soldiers who were discharged because of misrepresentation of age; to the Committee on Military Affairs.

By Mr. NOLAN: A bill (H. R. 10965) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes; to the Committee on Rivers and Harbors.

By Mr. SEIBERLING: A bill (H. R. 10966) authoring certain direct purchasers from the importer of sugar imported into the United States from the Argentine Republic during the year 1920 to submit claims to the Court of Claims; to the Committee on Claims.

By Mr. HENRY T. RAINEY: A bill (H. R. 10967) to amend section 13 of the radio act of 1927, approved February 23, 1927; to the Committee on the Merchant Marine and Fisheries.

By Mr. SUMMERS of Washington: Joint resolution (H. J. Res. 275) for the relief of the distressed and starving people of China; to the Committee on Agriculture.

By Mr. DICKSTEIN: Concurrent resolution (H. Con. Res. 24) that the Committees on the District of Columbia of the Senate and House conduct joint hearings to investigate living conditions in the District of Columbia, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

By Mr. FULMER: Memorial of the State Legislature of the State of South Carolina, urging the relief of those owning farms throughout the United States upon which said farms there may be mortgages to the Federal land banks; to the Committee on Banking and Currency.

By Mr. McMILLAN: Memorial of the House of Representatives of the State of South Carolina, memorializing Congress to approve of legislation looking to the relief of those owning farms mortgaged to the Federal land bank; to the Committee on Banking and Currency.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. COOPER of Ohio: A bill (H. R. 10968) granting a pension to Sarah E. Wagner; to the Committee on Invalid Pensions.

By Mr. CRADDOCK: A bill (H. R. 10969) granting a pension to William T. Jamison; to the Committee on Invalid Pensions.

By Mr. CULKIN: A bill (H. R. 10970) granting a pension to N. May Bush; to the Committee on Invalid Pensions.

By Mr. DOUGLAS of Arizona: A bill (H. R. 10971) for the relief of John McMahon, otherwise known as John James Marshall; to the Committee on Military Affairs.

By Mr. FINLEY: A bill (H. R. 10972) granting an increase of pension to Louisa Ferguson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10973) granting a pension to Sarah E. Vincent; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10974) granting an increase of pension to Cathern Swanson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10975) granting a pension to John A. Webb; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10976), granting a pension to Malinda C. Hooten; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10977) granting an increase of pension to Lucinda Edwards; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10978) granting an increase of pension to Mary J. Brittain; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10979) granting a pension to Menda Francis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10980) granting a pension to Nancy Bailey; to the Committee on Invalid Pensions.

By Mr. GARRETT: A bill (H. R. 10981) for the relief of Hubert W. Clark; to the Committee on Military Affairs.

By Mr. IRWIN: A bill (H. R. 10982) granting an increase of pension to Elizabeth Junk; to the Committee on Invalid Pensions.

By Mrs. KAHN: A bill (H. R. 10983) for the relief of Iria T. Peck; to the Committee on Military Affairs.

Also, a bill (H. R. 10984) to authorize the appointment of John J. Dean, Medical Corps, as warrant officer, United States Army; to the Committee on Military Affairs.

By Mrs. LANGLEY: A bill (H. R. 10985) granting a pension to Donna Christina Lawlis; to the Committee on Invalid Pensions.

By Mr. McLEOD: A bill (H. R. 10986) for the relief of John Lawler Harrigan; to the Committee on Naval Affairs.

Also, a bill (H. R. 10987) granting a pension to Ella B. Fuller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10988) granting an increase of pension to Joseph D. Beaubien; to the Committee on Pensions.

Also, a bill (H. R. 10989) granting a pension to Leon Lavigne; to the Committee on Pensions.

Also, a bill (H. R. 10990) granting a pension to Grace E. Grinsted; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10991) granting a pension to Lillian M. Bell; to the Committee on Invalid Pensions.

By Mr. MANLOVE: A bill (H. R. 10992) granting an increase of pension to Martha Curry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 10993) granting an increase of pension to Nancy Wright; to the Committee on Invalid Pensions.

By Mr. MEAD: A bill (H. R. 10994) granting a pension to Marguerite C. Traphagen; to the Committee on Invalid Pensions.

By Mr. MILLER: A bill (H. R. 10995) granting an increase of pension to Mary E. Bowen; to the Committee on Invalid Pensions.

By Mr. NOLAN: A bill (H. R. 10996) for the relief of H. C. Fisher; to the Committee on Claims.

By Mrs. OWEN: A bill (H. R. 10997) for the relief of Mrs. Adam L. Eichelberger; to the Committee on War Claims.

By Mr. PURNELL: A bill (H. R. 10998) granting an increase of pension to Amelia A. Wood; to the Committee on Invalid Pensions.

By Mr. REED of New York: A bill (H. R. 10999) granting an increase of pension to Maria C. McDonald; to the Committee on Invalid Pensions.

By Mr. SPEAKS: A bill (H. R. 11000) granting an increase of pension to Laura L. Grieble; to the Committee on Invalid Pensions.

By Mr. STRONG of Kansas: A bill (H. R. 11001) granting an increase of pension to Lou R. Dearborn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 11002) granting an increase of pension to Winifred B. Hodges; to the Committee on Pensions.

By Mr. UNDERWOOD: A bill (H. R. 11003) granting an increase of pension to Sarah Funk; to the Committee on Invalid Pensions.

By Mr. VINSON of Georgia: A bill (H. R. 11004) for the relief of certain officers of the United States Navy; to the Committee on Naval Affairs.

By Mr. WOLVERTON of New Jersey: A bill (H. R. 11005) granting a pension to Rebecca Harris; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

5891. Petition of the fifth district, Woman's Christian Temperance Union, city of Minneapolis, Minn., urging Federal supervision of motion pictures, establishing higher standards before production for films that are to be licensed for interstate and foreign commerce; to the Committee on Interstate and Foreign Commerce.

5892. By Mr. ARNOLD: Resolution from the City Commission of Mount Carmel, Ill., favoring the passage of the Spanish War pension bill; to the Committee on Pensions.

5893. By Mr. BLOOM: Petition of citizens of Cincinnati, Ohio, opposing the calling of an international conference by the President of the United States, or the acceptance by him of an invitation to participate in such a conference, for the purpose of revising the present calendar, unless a proviso be attached thereto definitely guaranteeing the preservation of the continuity of the weekly cycle without the insertion of the blank days; to the Committee on Foreign Affairs.

5894. By Mr. CABLE: Petition of citizens of Allen County, Ohio, urging the passage of House bill 2562, granting an increase of pensions to Spanish-American War veterans; to the Committee on Pensions.

5895. By Mr. COOKE: Petition of 250 citizens of the city of Buffalo, N. Y., favoring the passage of the Senate bill 476 and House bill 2562, providing for increased rates of pension for the men who served in the armed forces of the United States during the Spanish War period; to the Committee on Pensions.

5896. By Mr. CRAMTON: Petition signed by J. A. Bentalman and 131 other residents of Tuscola County, Mich., in favor of the 3-cent rate on beans as passed by the Senate in the pending tariff bill; to the Committee on Ways and Means.

5897. By Mr. CULKIN: Petition of W. A. Leslie and 133 citizens of West Eaton, N. Y., and vicinity, praying for the passage of bills giving increased pensions to veterans of the war with Spain; to the Committee on Pensions.

5898. By Mr. DAVIS: Petition of Gabriel Patterson and others, of Rutherford County, Tenn., supporting legislation for the relief of veterans of the Spanish-American War; to the Committee on Pensions.

5899. By Mr. FITZGERALD: Petition of 32 citizens of Dayton, Montgomery County, Ohio, praying for early passage of a bill to increase the psnsions of veterans of the Spanish War; to the Committee on Pensions.

5900. Also, petition of 71 citizens of Dayton, Montgomery County, Ohio, praying for early consideration and passage of a bill to increase the pensions of Spanish War veterans; to the Committee on Pensions.

5901. By Mr. FITZPATRICK: Petition of the Boni Cives Club (Inc.), of Yonkers, N. Y., requesting the speedy passage of House bill 6603 providing for a short workday on Saturday for postal employees; to the Committee on the Post Office and Post Roads.

5902. By Mr. FULMER: Resolution passed by Sumter Post, No. 15, American Legion, E. C. Dunn, post commander, and J. Cliff Brown, post adjutant, Sumter, S. C., indorsing House bill 9411 proposing to establish a veterans' hospital in South Carolina; to the committee on World War Veterans' Legislation.

5903. Also, petition in favor of House bill 9411 proposing to establish a veterans' hospital in South Carolina, passed by the American Legion Auxiliary, Mrs. Henry C. Jennings, president, Bishopville, S. C.; to the Committee on World War Veterans' Legislation.

5904. By Mr. HAWLEY: Petition of the voters of Linn County, Oreg., praying for pension legislation; to the Committee on Pensions.

5905. By Mr. HOOPER: Petition of H. P. Waldo and 58 other residents of Calhoun County, Mich., asking for increase of pensions for Spanish War veterans; to the Committee on Pensions.

5906. Also, petition of C. L. Matherly and 73 other residents of Calhoun County, Mich., asking for increase of pensions for Spanish War veterans; to the Committee on Pensions.

5907. By Mr. HOWARD: Petition of the City Council of the City of Columbus, Nebr., in behalf of House Joint Resolution 167 directing the President of the United States to proclaim October 11 of each year as General Pulaski memorial day; to the Committee on the Judiciary.

5908. By Mr. LEAVITT: Petition of Thomas H. Whipple and other citizens of Valier, Mont., favoring increased rates of pension for veterans of the Spanish-American War and widows and orphans of veterans; to the Committee on Pensions.

5909. By Mr. McFADDEN: Petition of citizens of Susquehanna County, Pa., petitioning Congress to secure speedy consideration and passage of Senate bill 476 and House bill 2562; to the Committee on Pensions.

5910. By Mr. McKEOWN: Petition of Lud King and other citizens of Okemah, Okla., urging immediate consideration of House bill 2562 granting increased rates of pension to veterans of the Spanish War period; to the Committee on Pensions.

5911. By Mr. MENGES: Petition of Mystic Lodge, Knights of Pythias, of York, State of Pennsylvania, favoring the establishment of a Federal department of education; to the Committee on Education.

5912. By Mrs. OWEN: Petition of citizens of Orange County, Fla., urging the passage of House bill 2562 granting an increase of pension to Spanish-American War veterans; to the Committee on Pensions.

5913. By Mr. PATMAN: Petition of 42 citizens of Mount Pleasant and Cookville, Tex., in support of House bill 2562 and Senate bill 476 providing for increased rates of pension to Spanish-American War veterans; to the Committee on Pensions.

5914. By Mr. SHORT of Missouri: Petition of citizens of Essex, Mo., urging increased pensions for Spanish War veterans and urging speedy passage of House bill 2562 and Senate bill 476; to the Committee on Pensions.

5915. Also, petition of citizens of New Madrid, Mo., urging the passage of House bill 2562 and Senate bill 476 to increase the pension of Spanish War veterans; to the Committee on Pensions.

5916. By Mr. SHOTT of West Virginia: Petition of Robert Witten, of Anawalt, McDowell County, W. Va., asking that Congress approve increased pension rates for Spanish-American War veterans; to the Committee on Pensions.

5917. Also, petition of Huntington (W. Va.) Chapter, American Association of Engineers, relative to the purchase of the George Washington engineering headquarters as a national monument; to the Committee on Public Buildings and Grounds.

5918. By Mr. SLOAN: Petition of L. B. Wallin and 68 others, for Senate bill 476 and 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.

5919. By Mr. STALKER: Petition of the citizens of Corning and Hornell, N. Y., urging Congress for the passage of the bill exempting dogs from vivisection in the District of Columbia or in any of the Territorial or insular possessions of the United States; to the Committee on the District of Columbia.

5920. Also, petition of the citizens of Ithaca, N. Y., and Bath, N. Y., urging Congress for the passage of bill exempting dogs from vivisection in the District of Columbia or in any of the Territorial or insular possessions of the United States as proposed by the International Conference for the Investigation of Vivisection; to the Committee on the District of Columbia.

5921. By Mr. STONE: Petition of 28 residents of Bethany, Okla., asking Congress to pass favorably on House bill 9233, to prescribe a certain prohibition oath; to the Committee on the Judiciary.

5922. Also, petition of 19 residents of Tonkawa, Okla., asking Congress to pass favorably on House bill 9233, to prescribe a certain oath; to the Committee on the Judiciary.

5923. Also, petition of 33 residents of Vici, Okla., asking Congress to pass favorably on House bill 9233, to prescribe a certain oath; to the Committee on the Judiciary.

5924. Also, petition of 21 residents of the town of Tonkawa, Okla., asking Congress to pass favorably on House bill 9233, to prescribe a certain prohibition oath; to the Committee on the Judiciary.

5925. Also, petition of 72 residents of Cherokee, Okla., asking Congress to pass favorably on House bill 9233 to prescribe a certain prohibition oath; to the Committee on the Judiciary.

5926. Also, petition of 86 residents of the town of Byron, Okla., asking Congress to pass favorably on House bill 9233 to prescribe a certain prohibition oath; to the Committee on the Judiciary.

5927. By Mr. TEMPLE: Petition of O. C. C. Pollock, R. F. D. 1, Canonsburg, and 230 others, favoring House bill 8976 for the relief of veterans of Indian wars and widows and minor orphan children of veterans; to the Committee on Pensions.

5928. By Mr. WHITLEY: Petition of citizens of Rochester, N. Y., urging passage of House bill 2562 to provide increased pensions for veterans of the Spanish-American War; to the Committee on Pensions.

5929. By Mr. WINGO: Petition of citizens of Texarkana, Ark., in behalf of Senate bill 476 and House bill 2562 to increase pensions of Spanish-American War veterans; to the Committee on Pensions.

SENATE

FRIDAY, *March 21, 1930*

(Legislative day of Monday, January 6, 1930)

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

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

The PRESIDENT pro tempore. The clerk will call the roll.

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

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

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

Mr. SHEPPARD. The junior Senator from Utah [Mr. KING] is necessarily detained from the Senate by illness. I will let this announcement stand for the day.

I also desire to announce the necessary absence of the Senator from Arkansas [Mr. ROBINSON] and the Senator from Pennsylvania [Mr. REED], who are delegates from the United States to the London Naval Conference.

I also wish to announce that the senior Senator from Tennessee [Mr. MCKELLAR] and the junior Senator from Tennessee [Mr. BROCK] are both necessarily detained from the Senate on account of illness.

Mr. SCHALL. My colleague [Mr. SHIPSTEAD] is unavoidably absent. I ask that this announcement may stand for the day.

The PRESIDENT pro tempore. Eighty-three Senators having answered to their names, a quorum is present.

PETITIONS AND MEMORIALS

Mr. CAPPER presented a petition of sundry citizens of Kansas City, Kans. and Mo., praying for the passage of legislation granting increased pensions to veterans of the war with Spain, which was ordered to lie on the table.

Mr. BRATTON presented a petition of sundry citizens of Elida and vicinity, in Roosevelt County, N. Mex., praying for the passage of legislation granting increased pensions to veterans of the war with Spain, which was ordered to lie on the table.

Mr. RANSDELL presented petitions of sundry citizens of New Orleans and Oil City, La., praying for the passage of legislation granting increased pensions to Spanish War veterans, which were ordered to lie on the table.

Mr. NORBECK presented a petition of sundry citizens of Tripp County, S. Dak., praying for the passage of legislation granting increased pensions to veterans of the war with Spain, which was ordered to lie on the table.

Mr. GREENE presented a resolution adopted by the Board of Aldermen of the City of Rutland, Vt., favoring the passage of legislation dedicating October 11 of each year as General Pulaski's memorial day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski, Revolutionary War hero, which was referred to the Committee on the Library.

Mr. BLAINE presented a resolution adopted by the convention of the Southern Wisconsin Teachers' Association, favoring the passage of legislation for the promotion of vocational rehabilitation, which was referred to the Committee on Education and Labor.

He also presented a resolution adopted by the Common Council of the City of Wauwatosa, Wis., favoring the passage of legislation dedicating October 11 of each year as General Pulaski's memorial day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski, Revolutionary War hero, which was referred to the Committee on the Library.

He also presented a petition of sundry citizens of Cuba City, Wis., praying for the passage of legislation granting increased pensions to veterans of the war with Spain, which was ordered to lie on the table.

He also presented resolutions adopted by La Crosse Aerie, No. 1254, of La Crosse, and Merrill Aerie, No. 584, of Merrill, both of the Fraternal Order of Eagles, in the State of Wisconsin, favoring the passage of legislation for the promotion of an old-age pension system, which were referred to the Committee on Pensions.

NAVAL LIMITATION

Mr. HALE. Mr. President, I present a telegram in the nature of a petition from the State of Maine Emergency Committee on the London Naval Conference. I ask that the telegram be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the telegram was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

PORTLAND, ME., *March 21, 1930.*

Hon. FREDERICK HALE,

Senate Office Building, Washington, D. C.:

Following message has been sent President Hoover and American delegation London: "Mr. President and members of the United States delegation to the London Naval Conference, we the undersigned strongly urge that negotiations at the London conference be conducted in full remembrance of the renunciation of war as pledged in the pact of Paris. We heartily indorse the policy of naval reduction as announced by the President in his Armistice Day address. Nothing short of substantial reduction will fulfill our expectations. Signed by more than 2,000 citizens of the State of Maine, Congressmen, State legislators, judges, college presidents and professors and other educators, clergymen, editors, lawyers, physicians, bankers, manufacturers, writers, merchants, city