Mr. IRWIN: Committee on Claims. H. R. 7872. A bill for the relief of Lucien M. Grant; without amendment (Rept. No. 1620). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 7936. A bill for the relief of Frank Kanelakos; without amendment (Rept. No. 1621). Referred to the Committee of the Whole House.

Mr. DOXEY: Committee on Claims. H. R. 8024. A bill for the relief of the Atchison, Topeka & Santa Fe Railway Co.; with amendment (Rept. No. 1622). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 8224. A bill to reimburse D. W. Tanner for expense of purchasing an artificial limb; without amendment (Rept. No. 1623). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 8785. A bill for the relief of the Board of Underwriters of New York; without amendment (Rept. No. 1624). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 8983. A bill for the relief of Charles S. Gawler; without amendment (Rept. No. 1625). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 3301. An act for the relief of Hunter P. Mulford; without amendment (Rept. No. 1626). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 5915. A bill for the relief of Barber-Hoppen Corporation; without amendment (Rept. No. 1627). Referred to the Committee of the Whole House.

Mr. McLEOD: Committee on the District of Columbia. H. R. 9792. A bill for the relief of the widows of certain members of the police and fire departments of the District of Columbia who were killed or died from injuries received in the line of duty, and for other purposes; with amendment (Rept. No. 1635). Referred to the Committee of the Whole House.

Mr. McLEOD: Committee on the District of Columbia. S. 2662. An act for the relief of Della D. Ledendecker; without amendment (Rept. No. 1636). Referred to the Committee of the Whole House.

## CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 12538) granting a pension to Maud A. Robinson; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 2664) for the relief of the estate of Ambrose R. Tracy and his children; Committee on the Judiciary discharged, and referred to the Committee on Claims.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LEHLBACH: A bill (H. R. 12599) to amend section 16 of the radio act of 1927; to the Committee on the Merchant Marine and Fisheries.

By Mr. ZIHLMAN: A bill (H. R. 12600) to regulate tolls charged for transit over highway bridges across the Potomac River between the States of Maryland and West Virginia; to the Committee on Interstate and Foreign Commerce.

By Mr. COLTON: A bill (H. R. 12601) to provide for the compromise and settlement of claims held by the United States of America arising under the provisions of section 210 of the transportation act, 1920, as amended; to the Committee on Interstate and Foreign Commerce.

By Mr. JAMES (by request of the War Department): A bill (H. R. 12602) to authorize an appropriation for construction at Carlisle Barracks, Pa.; to the Committee on Military Affairs.

By Mr. SCHAFER of Wisconsin: Resolution (H. Res. 225) to inquire into the activities of Federal officials and employees connected with the initiation and prosecution of disbarment proceedings against George F. Curtis; to the Committee on Rules.

By Mr. FITZGERALD: Joint resolution (H. J. Res. 347) to provide for the erection of a suitable memorial to the memory of Comte de Grasse; to the Committee on the Library.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CRAIL: A bill (H. R. 12603) granting a pension to Richard H. McCarthy; to the Committee on Pensions.

By Mr. HOPKINS: A bill (H. R. 12604) granting an increase of pension to Mary A. J. Wilson; to the Committee on Invalid Pensions.

By Mr. HOUSTON of Delaware: A bill (H. R. 12605) granting an increase of pension to Sarah E. Eskridge; to the Committee on Pensions.

By Mr. JOHNSTON of Missouri: A bill (H. R. 12606) granting an increase of pension to Margaret S. Rains; to the Committee on Invalid Pensions.

By Mr. KEARNS: A bill (H. R. 12607) granting an increase of pension to Alice Kirkpatrick; to the Committee on Invalid Pensions.

By Mr. KENDALL of Pennsylvania: A bill (H. R. 12608) granting an increase of pension to Sarah E. Engle; to the Committee on Invalid Pensions.

By Mr. LEAVITT: A bill (H. R. 12609) to authorize issuance of a patent to Frieda Buer for certain lands, and for other purposes; to the Committee on the Public Lands.

By Mr. McKEOWN: A bill (H. R. 12610) to release to the city of Chandler, Okla., all right, title, and interest of the United States in the military target range of Lincoln County, Okla.; to the Committee on Military Affairs.

By Mr. WOLVERTON of West Virginia: A bill (H. R. 12611) granting an increase of pension to Rachel J. Pierce; 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:

7370. Petition of Columbus Camp, No. 49, of the Department of Ohio, United Spanish War Veterans, indorsing Comrade Albert D. Alcorn for appointment as Commissioner of Pensions; to the Committee on Pensions.

7371. By Mr. FITZGERALD: Petition signed by 17 residents of Dayton, Ohio, asking for repeal of Volstead law; to the Committee on the Judiciary.

7372. By Mr. GARBER of Oklahoma: Petition of Chamber of Commerce, State of New York, New York Board of Trade, and Advisory Board of American Coalition, urging support and passage of bill restricting immigration from Mexico; to the Committee on Immigration and Naturalization.

7373. Also, petition of American Association for Labor Legislation, New York, N. Y., urging support and passage of Senate bills 3059, 3060, and 3061; to the Committee on Labor.

7374. Also, petition of the Namm Store, of Brooklyn, N. Y., in opposition to House bill 11; to the Committee on Ways and Means.

7375. By Mr. HUDSON: Petition of the members of the Lansing district, Women's Foreign Missionary Society, Central Methodist Episcopal Church, Lansing, Mich., urging the passage of House bill 9986, having to do with the matter of Federal supervision of the motion-picture industry; to the Committee on Interstate and Foreign Commerce.

7376. By Mr. ROBINSON: Petition signed by Ella B. Ward, president, and Mrs. W. F. Dodd, secretary, of the Woman's Christian Temperance Union of New Hartford, Iowa, urging the passage of legislation for the Federal supervision of motion pictures establishing higher standards before production for films that are to be licensed for interstate and international commerce; to the Committee on Interstate and Foreign Commerce.

7377. By Mr. SELVIG: Petition of Minnesota Council of the Steuben Society of America, urging favorable action on House Joint Resolution 213; to the Committee on the Post Office and Post Roads.

7378. By Mr. TEMPLE: Resolution adopted at an institute under the auspices of the Woman's Christian Temperance Union of Jefferson, Greene County, Pa., urging the enactment of a law for the Federal supervision of motion pictures, establishing higher standards before production for films that are to be licensed for interstate and international commerce; to the Committee on Interstate and Foreign Commerce.

# SENATE

MONDAY, *May 26, 1930*

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

Eternal Father, who lovest all Thy children with an everlasting love, grant us Thy choicest blessings as we gather here to dedicate anew our service to our country and our God. Give us a clear soul, an iron will, an attractive union of manliness and godliness, of shrewd sense and unworldly aims, and withal that kindliness and pity the absence of which abates the actual value of all these other gifts. Enrich our personality with hope and greatness that we may touch the simplest acts of life with

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an unearthly light, revealing them as beauteous symbols of high mystery.

If sorrow or the fret of care disturb us in our work with vacuous mood, bring Thou the lesson to our soul, not as some tedious interlude of painful weary hours but as the very melody and march of life itself which lead us unto Thee. All of which we ask through Jesus Christ, our Lord and Savior. Amen.

THE JOURNAL

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Farrell, its enrolling clerk, announced that the House had agreed to the amendments of the Senate to the amendment of the House to the bill (S. 4182) granting the consent of Congress to the county of Georgetown, S. C., to construct, maintain, and operate a bridge across the Pee Dee River and a bridge across the Waccamaw River, both at or near Georgetown, S. C.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 12205) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. KNUTSON, Mr. KOPP, and Mr. BOX were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 33. Concurrent resolution requesting the President to return to the House of Representatives the bill (H. R. 185) to amend section 180, title 28, United States Code, as amended; and

H. Con. Res. 34. Concurrent resolution requesting the President to return to the House of Representatives the bill (H. R. 3975) to amend sections 726 and 727 of title 18, United States Code, with reference to Federal probation officers, and to add a new section thereto.

The message also announced that the House had passed without amendment the following bills of the Senate:

S. 218. An act to place Norman A. Ross on the retired list of the Navy;

S. 286. An act for the relief of Thelma Phelps Lester;

S. 888. An act for the relief of Francis J. McDonald;

S. 1309. An act granting six months' pay to Mary A. Bourgeois;

S. 1572. An act for the relief of the Allegheny Forging Co.;

S. 2245. An act for the relief of A. H. Cousins;

S. 2524. An act for the relief of J. A. Lemire;

S. 3586. An act for the relief of George Campbell Armstrong;

S. 3910. An act to authorize the President to appoint Capt. Charles H. Harlow a commodore on the retired list; and

S. 4481. An act authorizing the exchange of certain real properties situated in Mobile, Ala., between the Secretary of Commerce on behalf of the United States Government and the Gulf, Mobile & Northern Railroad Co., by the appropriate conveyances containing certain conditions and reservations.

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

H. R. 48. An act donating bronze trophy guns to the Cohoes Historical Society, Cohoes, N. Y.;

H. R. 320. An act for the relief of Haskins & Sells;

H. R. 328. An act for the relief of Parke, Davis & Co.;

H. R. 329. An act for the relief of Joseph A. McEvoy;

H. R. 478. An act for the relief of Marijune Cron;

H. R. 523. An act for the relief of Benjamin C. Lewis and Bessie Lewis, his wife;

H. R. 573. An act for the relief of Barzilla William Bramble;

H. R. 593. An act for the relief of First Lieut. John R. Bailey;

H. R. 650. An act for the payment of damages to certain citizens of California and other owners of property damaged by the flood, caused by reason of artificial obstructions to the natural flow of water being placed in the Picacho and No-name Washes by an agency of the United States;

H. R. 655. An act for the relief of Guy E. Tuttle;

H. R. 669. An act for the relief of Seth J. Harris;

H. R. 692. An act for the relief of Ella E. Horner;

H. R. 794. An act for the relief of C. B. Smith;

H. R. 851. An act for the relief of Richard Kirchhoff;

H. R. 885. An act for the relief of George F. Newhart, Clyde Hahn, and David McCormick;

H. R. 887. An act for the relief of Mary R. Long;

H. R. 913. An act for the relief of Belle Clopton;

H. R. 917. An act for the relief of John Panza and Rose Panza;

H. R. 919. An act for the relief of the father of Catharine Kearney;

H. R. 936. An act for the relief of Glen D. Tolman;

H. R. 939. An act for the relief of Mary J. Dee;

H. R. 1029. An act for the relief of Arthur D. Story, assignee of Jacob Story, and Harris H. Gilman, receiver for the Murray & Thregurtha plant of the National Motors Corporation;

H. R. 1057. An act for the relief of John W. Adair;

H. R. 1063. An act for the relief of Alice Hipkins;

H. R. 1076. An act for the relief of Jacob S. Steloff;

H. R. 1155. An act for the relief of Eugene A. Dubrule;

H. R. 1160. An act for the relief of Henry P. Biehl;

H. R. 1499. An act for the relief of C. O. Crosby;

H. R. 1546. An act for the relief of Thomas Seltzer;

H. R. 1696. An act for the relief of Lieut. Timothy J. Mulcahy, Supply Corps, United States Navy;

H. R. 1724. An act for the relief of Margaret Lemley;

H. R. 1759. An act for the relief of Laura A. DePodesta;

H. R. 1825. An act for the relief of David McD. Shearer;

H. R. 1888. An act for the relief of Rose Lea Comstock;

H. R. 1944. An act for the relief of Bruce Bros. Grain Co.;

H. R. 1964. An act for the relief of S. A. Jones;

H. R. 2175. An act for the relief of the Great Western Coal Mines Co.;

H. R. 2185. An act for the relief of Edwin G. Blanchard;

H. R. 2222. An act for the relief of Laurin Gosney;

H. R. 2458. An act for the relief of Darold Brundige;

H. R. 2587. An act for the relief of James P. Sloan;

H. R. 2626. An act for the relief of George Joseph Boydell;

H. R. 2645. An act for the relief of Homer Elmer Cox;

H. R. 2776. An act for the relief of Dr. Charles F. Dewitz;

H. R. 2810. An act for the relief of Katherine Anderson;

H. R. 2849. An act for the relief of the Lowell Oakland Co.;

H. R. 2876. An act for the relief of J. C. Peixotto;

H. R. 2887. An act for the relief of Mildred L. Williams;

H. R. 2951. An act granting six months' pay to Frank J. Hale;

H. R. 3072. An act for the relief of Peterson-Colwell (Inc.);

H. R. 3175. An act to authorize Lieut. Commander James C. Monfort, of the United States Navy, to accept a decoration conferred upon him by the Government of Italy;

H. R. 3203. An act to authorize the city of Salina and the town of Redmond, State of Utah, to secure adequate supplies of water for municipal and domestic purposes through the development of subterranean water on certain public lands within said State;

H. R. 3422. An act for the relief of Gustav J. Braun;

H. R. 3430. An act for the relief of Anthony Marcum;

H. R. 3610. An act for the relief of William Geravis Hill;

H. R. 3764. An act for the relief of Ruban W. Riley;

H. R. 3801. An act waiving the limiting period of two years in Executive Order No. 4576 to enable the Board of Awards of the Navy Department to consider recommendation of the award of the distinguished-flying cross to members of the Alaskan Aerial Survey Expedition;

H. R. 3935. An act for the relief of Eugenia A. Helston;

H. R. 4050. An act donating trophy gun to F. D. Hubbel Relief Corps, No. 103, of Hillsboro, Ill.;

H. R. 4206. An act authorizing the Secretary of the Navy, in his discretion, to loan to the city of Olympia, State of Washington, the silver service set and bronze tablet in use on the U. S. cruiser *Olympia;*

H. R. 4469. An act for the relief of Second Lieut. Burgo D. Gill;

H. R. 5213. An act for the relief of Grant R. Kelsey, alias Vincent J. Moran;

H. R. 5611. An act for the relief of William H. Behling;

H. R. 5962. An act for the relief of R. E. Marshall;

H. R. 6076. An act authorizing the Secretary of the Navy to sell to Frank Miller, of Riverside, Calif., the bell formerly in use on the U. S. S. *Sylph;*

H. R. 6117. An act for the relief of the Central of Georgia Railway Co.;

H. R. 6186. An act for the relief of Frank Storms;

H. R. 6209. An act for the relief of Dalton G. Miller;

H. R. 6210. An act to authorize an appropriation for the relief of Joseph K. Munhall;

H. R. 6227. An act for the relief of Elizabeth Lynn;

H. R. 6348. An act donating trophy guns to Varina Davis Chapter, No. 1980, United Daughters of the Confederacy, Macclenny, Fla.;

H. R. 6663. An act for the relief of J. N. Lewis;

H. R. 7205. An act for the relief of Lamirah F. Thomas;

H. R. 7299. An act for the relief of Hannah Odekirk;

H. R. 7464. An act for the relief of Robert R. Strehlow;

H. R. 7484. An act for the relief of Edward R. Egan;

H. R. 8479. An act to amend section 7 of Public Act No. 391, Seventieth Congress, approved May 15, 1928;

H. R. 8589. An act for the relief of Charles J. Ferris, major, United States Army, retired;

H. R. 8591. An act for the relief of Henry Spight;

H. R. 8836. An act for the relief of the French Company of Marine and Commerce;

H. R. 9109. An act authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the Jefferson Memorial Association, of St. Louis, Mo., the ship's bell, builder's label plate, a record of war services, letters forming ship's name, and silver service of the cruiser *St. Louis* that is now or may be in his custody;

H. R. 9123. An act for the relief of Francis Linker;

H. R. 9169. An act for the relief of the successors of Luther Burbank;

H. R. 9198. An act to remove cloud as to title of lands at Fort Lyttleton, S. C.;

H. R. 9246. An act to reimburse Lieut. Col. Frank J. Killilea;

H. R. 9425. An act to authorize the Secretary of War to donate a bronze cannon to the city of Martins Ferry, Ohio;

H. R. 9824. An act for the relief of the owners of the French bark *France;*

H. R. 9975. An act for the relief of John C. Warren, alias John Stevens;

H. R. 9987. An act to provide for the relinquishment by the United States of certain lands to the city of Rupert in the county of Minidoka in the State of Idaho;

H. R. 10117. An act authorizing the payment of grazing fees to E. P. McManigal;

H. R. 10310. An act for the relief of Samuel Pelfrey;

H. R. 10317. An act for the relief of Samuel S. Michaelson;

H. R. 10737. An act for the relief of G. W. Gilkison; and

H. R. 12131. An act granting the consent of Congress to the Commonwealth of Pennsylvania to construct, maintain, and operate a free highway bridge across the Allegheny River at or near Kittanning, Armstrong County, Pa.

CONFERENCE REPORT ON THE TARIFF BILL (S. DOC. NO. 154)

Mr. SMOOT. Mr. President, I send to the desk the conference report on the bill (H. R. 2667) to provide revenues and regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes.

I give notice that I wish to call up the conference report to-morrow. I will state that each Senator will find a copy of the report upon his desk at this time. To-morrow I shall make an explanation of each schedule to show just what has been done by way of increases or decreases and giving a comparison between the existing law and the bill as reported.

Mr. TYDINGS. Mr. President, will the Senator indicate when we may come to consider the conference report for voting purposes?

Mr. SMOOT. I can not tell just how long it will be before we reach that stage. There may be some Senators who to-morrow will ask for a longer time to consider the conference report, although I doubt it.

Mr. TYDINGS. The reason why I ask the question is that a number of us have engagements on Decoration Day, and I was wondering whether or not we would have to arrange to get pairs or cancel our engagements.

Mr. SMOOT. I do not think we shall be through by that time.

Mr. TYDINGS. The Senator does not think so?

Mr. SMOOT. No; I do not.

Mr. WATSON. Mr. President, in this connection, so many Senators have stated that they desire to be absent on Decoration Day that it occurs to me we ought to have an understanding that when we adjourn on Thursday night, Decoration Day being Friday, we shall adjourn over until Monday. I have not had an opportunity to talk with the Senator from Arkansas [Mr. ROBINSON] about it, but in order to ascertain if it meets with the approval of Senators generally I ask unanimous consent that that may be done.

Mr. ROBINSON of Arkansas. Mr. President, I think perhaps it would be wise to suggest the absence of a quorum, if the Senator will do so, in order to afford all Senators an opportunity to be present when the request is submitted.

Mr. WATSON. Very well.

Mr. ROBINSON of Arkansas. Personally, I make no objection to the arrangement.

The report submitted by Mr. SMOOT was ordered to lie on the table and to be printed as follows:

The committee of conference on the disagreeing votes of the two Houses on the following numbered amendments of the Senate on which they had hitherto failed to agree to the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes, namely, amendments numbered 40, 41, 42, 43, 48, 49, 65, 66, 67, 364, 371, 374, 375, 377, 379, 380, 381, 383, 385, 386, 387, 885, 893, 895, 896, 897, 898, 899, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 913, 914, 915, 916, 917, 919, 920, 921, 922, 923, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 940, 942, 945, 946, 947, 948, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 987, 989, 992, 993, 995, 997, 999, 1002, 1003, 1004, 1006, 1008, 1009, 1010, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1031, 1032, 1033, 1034, 1036, 1037, 1038, 1039, 1040, 1041, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1055, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1066, 1067, 1068, 1070, 1071, 1072, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1085, 1086, 1087, 1089, 1090, 1091, 1093, 1094, 1095, 1096, 1098, 1099, 1102, 1103, 1104, 1105, 1109, 1111, 1112, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1138, 1139, 1140, 1141, 1151, 1156, 1157, 1171, and 1179, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 364, 885, 893, 903, 904, 1004, 1006, 1095, 1128, 1138, 1139, 1141, and 1156.

That the House recede from its disagreement to the amendments of the Senate numbered 40, 41, 42, 43, 48, 49, 65, 66, 67, 374, 375, 377, 379, 380, 381, 383, 385, 386, 387, 895, 896, 897, 898, 899, 901, 902, 905, 906, 907, 908, 909, 910, 911, 913, 914, 915, 916, 917, 919, 920, 921, 922, 923, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 940, 942, 945, 946, 947, 948, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 1091, 1093, 1129, 1132, and 1133, and agree to the same.

Amendment numbered 371: That the House recede from its disagreement to the amendment of the Senate numbered 371, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"PAR. 401. 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, $1 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 or 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."

And the Senate agree to the same.

Amendment numbered 969: That the House recede from its disagreement to the amendment of the Senate numbered 969, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1709"; and the Senate agree to the same.

Amendment numbered 970: That the House recede from its disagreement to the amendment of the Senate numbered 970, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1710"; and the Senate agree to the same.

Amendment numbered 971: That the House recede from its disagreement to the amendment of the Senate numbered 971, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1711"; and the Senate agree to the same.

Amendment numbered 972: That the House recede from its disagreement to the amendment of the Senate numbered 972, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1712"; and the Senate agree to the same.

Amendment numbered 973: That the House recede from its disagreement to the amendment of the Senate numbered 973,

and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1713"; and the Senate agree to the same.

Amendment numbered 974: That the House recede from its disagreement to the amendment of the Senate numbered 974, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1714"; and the Senate agree to the same.

Amendment numbered 975: That the House recede from its disagreement to the amendment of the Senate numbered 975, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1715"; and the Senate agree to the same.

Amendment numbered 976: That the House recede from its disagreement to the amendment of the Senate numbered 976, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1716"; and the Senate agree to the same.

Amendment numbered 977: That the House recede from its disagreement to the amendment of the Senate numbered 977, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1717"; and the Senate agree to the same.

Amendment numbered 978: That the House recede from its disagreement to the amendment of the Senate numbered 978, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1718"; and the Senate agree to the same.

Amendment numbered 979: That the House recede from its disagreement to the amendment of the Senate numbered 979, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1719"; and the Senate agree to the same.

Amendment numbered 980: That the House recede from its disagreement to the amendment of the Senate numbered 980, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1720"; and the Senate agree to the same.

Amendment numbered 981: That the House recede from its disagreement to the amendment of the Senate numbered 981, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1721"; and the Senate agree to the same.

Amendment numbered 982: That the House recede from its disagreement to the amendment of the Senate numbered 982, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1722"; and the Senate agree to the same.

Amendment numbered 983: That the House recede from its disagreement to the amendment of the Senate numbered 983, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"PAR. 1723. Muzzle-loading muskets, shotguns, rifles, and parts thereof."

And the Senate agree to the same.

Amendment numbered 984: That the House recede from its disagreement to the amendment of the Senate numbered 984, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1724"; and the Senate agree to the same.

Amendment numbered 985: That the House recede from its disagreement to the amendment of the Senate numbered 985, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1725"; and the Senate agree to the same.

Amendment numbered 987: That the House recede from its disagreement to the amendment of the Senate numbered 987, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1726"; and the Senate agree to the same.

Amendment numbered 989: That the House recede from its disagreement to the amendment of the Senate numbered 989, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1727"; and the Senate agree to the same.

Amendment numbered 992: That the House recede from its disagreement to the amendment of the Senate numbered 992, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1728. Nux vomica, gentian, sarsaparilla root, belladonna, henbane, stramonium, and ergot"; and the Senate agree to the same.

Amendment numbered 993: That the House recede from its disagreement to the amendment of the Senate numbered 993, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1729"; and the Senate agree to the same.

Amendment numbered 995: That the House recede from its disagreement to the amendment of the Senate numbered 995, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1730"; and the Senate agree to the same.

Amendment numbered 997: That the House recede from its disagreement to the amendment of the Senate numbered 997, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1731"; and the Senate agree to the same.

Amendment numbered 999: That the House recede from its disagreement to the amendment of the Senate numbered 999, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1732"; and the Senate agree to the same.

Amendment numbered 1002: That the House recede from its disagreement to the amendment of the Senate numbered 1002, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1733"; and the Senate agree to the same.

Amendment numbered 1003: That the House recede from its disagreement to the amendment of the Senate numbered 1003, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1734"; and the Senate agree to the same.

Amendment numbered 1008: That the House recede from its disagreement to the amendment of the Senate numbered 1008, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1735"; and the Senate agree to the same.

Amendment numbered 1009: That the House recede from its disagreement to the amendment of the Senate numbered 1009, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1736"; and the Senate agree to the same.

Amendment numbered 1010: That the House recede from its disagreement to the amendment of the Senate numbered 1010, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1737"; and the Senate agree to the same.

Amendment numbered 1012: That the House recede from its disagreement to the amendment of the Senate numbered 1012, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1738"; and the Senate agree to the same.

Amendment numbered 1013: That the House recede from its disagreement to the amendment of the Senate numbered 1013, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1739"; and the Senate agree to the same.

Amendment numbered 1014: That the House recede from its disagreement to the amendment of the Senate numbered 1014, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1740"; and the Senate agree to the same.

Amendment numbered 1015: That the House recede from its disagreement to the amendment of the Senate numbered 1015, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1741"; and the Senate agree to the same.

Amendment numbered 1016: That the House recede from its disagreement to the amendment of the Senate numbered 1016, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1742"; and the Senate agree to the same.

Amendment numbered 1017: That the House recede from its disagreement to the amendment of the Senate numbered 1017, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1743"; and the Senate agree to the same.

Amendment numbered 1018: That the House recede from its disagreement to the amendment of the Senate numbered 1018, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1744"; and the Senate agree to the same.

Amendment numbered 1019: That the House recede from its disagreement to the amendment of the Senate numbered 1019, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1745"; and the Senate agree to the same.

Amendment numbered 1020: That the House recede from its disagreement to the amendment of the Senate numbered 1020, and agree to the same with an amendment as follows: In lieu

of the matter proposed to be inserted by the Senate amendment insert "1746"; and the Senate agree to the same.

Amendment numbered 1021: That the House recede from its disagreement to the amendment of the Senate numbered 1021, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1747"; and the Senate agree to the same.

Amendment numbered 1022: That the House recede from its disagreement to the amendment of the Senate numbered 1022, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1748"; and the Senate agree to the same.

Amendment numbered 1023: That the House recede from its disagreement to the amendment of the Senate numbered 1023, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1749"; and the Senate agree to the same.

Amendment numbered 1024: That the House recede from its disagreement to the amendment of the Senate numbered 1024, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1750"; and the Senate agree to the same.

Amendment numbered 1025: That the House recede from its disagreement to the amendment of the Senate numbered 1025, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1751"; and the Senate agree to the same.

Amendment numbered 1026: That the House recede from its disagreement to the amendment of the Senate numbered 1026, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1752"; and the Senate agree to the same.

Amendment numbered 1027: That the House recede from its disagreement to the amendment of the Senate numbered 1027, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1753"; and the Senate agree to the same.

Amendment numbered 1028: That the House recede from its disagreement to the amendment of the Senate numbered 1028, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1754"; and the Senate agree to the same.

Amendment numbered 1029: That the House recede from its disagreement to the amendment of the Senate numbered 1029, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1755"; and the Senate agree to the same.

Amendment numbered 1031: That the House recede from its disagreement to the amendment of the Senate numbered 1031, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1756. Sea herring, smelts, and"; and the Senate agree to the same.

Amendment numbered 1032: That the House recede from its disagreement to the amendment of the Senate numbered 1032, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1757. Cowpeas not specially provided for, and sugar"; and the Senate agree to the same.

Amendment numbered 1033: That the House recede from its disagreement to the amendment of the Senate numbered 1033, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1758"; and the Senate agree to the same.

Amendment numbered 1034: That the House recede from its disagreement to the amendment of the Senate numbered 1034, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1759"; and the Senate agree to the same.

Amendment numbered 1036: That the House recede from its disagreement to the amendment of the Senate numbered 1036, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1761"; and the Senate agree to the same.

Amendment numbered 1037: That the House recede from its disagreement to the amendment of the Senate numbered 1037, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1762"; and the Senate agree to the same.

Amendment numbered 1038: That the House recede from its disagreement to the amendment of the Senate numbered 1038, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1763"; and the Senate agree to the same.

Amendment numbered 1039: That the House recede from its disagreement to the amendment of the Senate numbered 1039, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1764"; and the Senate agree to the same.

Amendment numbered 1040: That the House recede from its disagreement to the amendment of the Senate numbered 1040, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1765"; and the Senate agree to the same.

Amendment numbered 1041: That the House recede from its disagreement to the amendment of the Senate numbered 1041, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1766"; and the Senate agree to the same.

Amendment numbered 1046: That the House recede from its disagreement to the amendment of the Senate numbered 1046, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1767"; and the Senate agree to the same.

Amendment numbered 1047: That the House recede from its disagreement to the amendment of the Senate numbered 1047, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"PAR. 1768. Spices and spice seeds:

"(1) Cassia, cassia buds, and cassia vera; cloves; clove stems; cinnamon and cinnamon chips; ginger root, not preserved or candied; mace; nutmegs; black or white pepper; and pimento (allspice); all the foregoing, if unground.

"(2) Anise; caraway; cardamom; coriander; cummin; and fennel."

And the Senate agree to the same.

Amendment numbered 1048: That the House recede from its disagreement to the amendment of the Senate numbered 1048, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1769"; and the Senate agree to the same.

Amendment numbered 1049: That the House recede from its disagreement to the amendment of the Senate numbered 1049, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1770"; and the Senate agree to the same.

Amendment numbered 1050: That the House recede from its disagreement to the amendment of the Senate numbered 1050, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1771"; and the Senate agree to the same.

Amendment numbered 1051: That the House recede from its disagreement to the amendment of the Senate numbered 1051, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1772"; and the Senate agree to the same.

Amendment numbered 1052: That the House recede from its disagreement to the amendment of the Senate numbered 1052, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1773"; and the Senate agree to the same.

Amendment numbered 1053: That the House recede from its disagreement to the amendment of the Senate numbered 1053, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1774"; and the Senate agree to the same.

Amendment numbered 1055: That the House recede from its disagreement to the amendment of the Senate numbered 1055, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1775"; and the Senate agree to the same.

Amendment numbered 1057: That the House recede from its disagreement to the amendment of the Senate numbered 1057, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1776"; and the Senate agree to the same.

Amendment numbered 1058: That the House recede from its disagreement to the amendment of the Senate numbered 1058, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1777"; and the Senate agree to the same.

Amendment numbered 1059: That the House recede from its disagreement to the amendment of the Senate numbered 1059, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1778"; and the Senate agree to the same.

Amendment numbered 1060: That the House recede from its disagreement to the amendment of the Senate numbered 1060, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1779"; and the Senate agree to the same.

Amendment numbered 1061: That the House recede from its disagreement to the amendment of the Senate numbered 1061, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1780"; and the Senate agree to the same.

Amendment numbered 1062: That the House recede from its disagreement to the amendment of the Senate numbered 1062, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1781"; and the Senate agree to the same.

Amendment numbered 1063: That the House recede from its disagreement to the amendment of the Senate numbered 1063, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1782"; and the Senate agree to the same.

Amendment numbered 1064: That the House recede from its disagreement to the amendment of the Senate numbered 1064, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1783. (a) Impure tea, tea waste, and tea siftings and sweepings, for manufacturing purposes in bond, pursuant to the provisions of the act entitled 'An act to prevent the importation of impure and unwholesome tea,' approved March 2, 1897, and acts amendatory thereof and supplementary thereto.

"(b) Tea."

And the Senate agree to the same.

Amendment numbered 1066: That the House recede from its disagreement to the amendment of the Senate numbered 1066, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1784"; and the Senate agree to the same.

Amendment numbered 1067: That the House recede from its disagreement to the amendment of the Senate numbered 1067, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1785"; and the Senate agree to the same.

Amendment numbered 1068: That the House recede from its disagreement to the amendment of the Senate numbered 1068, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1786"; and the Senate agree to the same.

Amendment numbered 1070: That the House recede from its disagreement to the amendment of the Senate numbered 1070, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1787"; and the Senate agree to the same.

Amendment numbered 1071: That the House recede from its disagreement to the amendment of the Senate numbered 1071, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"PAR. 1788. Truffles, fresh, or dried or otherwise prepared or preserved."

And the Senate agree to the same.

Amendment numbered 1072: That the House recede from its disagreement to the amendment of the Senate numbered 1072, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1789"; and the Senate agree to the same.

Amendment numbered 1074: That the House recede from its disagreement to the amendment of the Senate numbered 1074, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1790"; and the Senate agree to the same.

Amendment numbered 1075: That the House recede from its disagreement to the amendment of the Senate numbered 1075, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1791"; and the Senate agree to the same.

Amendment numbered 1076: That the House recede from its disagreement to the amendment of the Senate numbered 1076, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1792"; and the Senate agree to the same.

Amendment numbered 1077: That the House recede from its disagreement to the amendment of the Senate numbered 1077, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1793"; and the Senate agree to the same.

Amendment numbered 1078: That the House recede from its disagreement to the amendment of the Senate numbered 1078, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1794"; and the Senate agree to the same.

Amendment numbered 1079: That the House recede from its disagreement to the amendment of the Senate numbered 1079, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1795"; and the Senate agree to the same.

Amendment numbered 1080: That the House recede from its disagreement to the amendment of the Senate numbered 1080, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1796"; and the Senate agree to the same.

Amendment numbered 1081: That the House recede from its disagreement to the amendment of the Senate numbered 1081, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1797"; and the Senate agree to the same.

Amendment numbered 1082: That the House recede from its disagreement to the amendment of the Senate numbered 1082, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1798"; and the Senate agree to the same.

Amendment numbered 1085: That the House recede from its disagreement to the amendment of the Senate numbered 1085, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1799"; and the Senate agree to the same.

Amendment numbered 1086: That the House recede from its disagreement to the amendment of the Senate numbered 1086, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1800"; and the Senate agree to the same.

Amendment numbered 1087: That the House recede from its disagreement to the amendment of the Senate numbered 1087, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1801"; and the Senate agree to the same.

Amendment numbered 1089: That the House recede from its disagreement to the amendment of the Senate numbered 1089, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1802"; and the Senate agree to the same.

Amendment numbered 1090: That the House recede from its disagreement to the amendment of the Senate numbered 1090, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1803"; and the Senate agree to the same.

Amendment numbered 1094: That the House recede from its disagreement to the amendment of the Senate numbered 1094, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1804"; and the Senate agree to the same.

Amendment numbered 1096: That the House recede from its disagreement to the amendment of the Senate numbered 1096, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1805"; and the Senate agree to the same.

Amendment numbered 1098: That the House recede from its disagreement to the amendment of the Senate numbered 1098, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1806"; and the Senate agree to the same.

Amendment numbered 1099: That the House recede from its disagreement to the amendment of the Senate numbered 1099, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1807"; and the Senate agree to the same.

Amendment numbered 1102: That the House recede from its disagreement to the amendment of the Senate numbered 1102, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1808"; and the Senate agree to the same.

Amendment numbered 1103: That the House recede from its disagreement to the amendment of the Senate numbered 1103, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1809"; and the Senate agree to the same.

Amendment numbered 1104: That the House recede from its disagreement to the amendment of the Senate numbered 1104, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1810"; and the Senate agree to the same.

Amendment numbered 1105: That the House recede from its disagreement to the amendment of the Senate numbered 1105, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1811"; and the Senate agree to the same.

Amendment numbered 1109: That the House recede from its disagreement to the amendment of the Senate numbered 1109,

and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"PAR. 1812. Gobelin tapestries used as wall hangings."

And the Senate agree to the same.

Amendment numbered 1111: That the House recede from its disagreement to the amendment of the Senate numbered 1111, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1813"; and the Senate agree to the same.

Amendment numbered 1112: That the House recede from its disagreement to the amendment of the Senate numbered 1112, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "1814"; and the Senate agree to the same.

Amendment numbered 1130: That the House recede from its disagreement to the amendment of the Senate numbered 1130, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert a comma and the following: "but in no event for longer than 90 days after the effective date of this act"; and the Senate agree to the same.

Amendment numbered 1131: That the House recede from its disagreement to the amendment of the Senate numbered 1131, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "No person shall be eligible for appointment as a commissioner unless he is a citizen of the United States, and, in the judgment of the President, is possessed of qualifications requisite for developing expert knowledge of tariff problems and efficiency in administering the provisions of Part II of this title. Not more than three of the commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable" and a period; and the Senate agree to the same.

Amendment numbered 1134: That the House recede from its disagreement to the amendment of the Senate numbered 1134, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "No commissioner shall be designated as chairman or vice chairman during any term of office if he has previously held office during such term as chairman or vice chairman, respectively" and a period; and the Senate agree to the same.

Amendment numbered 1135: That the House recede from its disagreement to the amendment of the Senate numbered 1135, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert "$11,000"; and the Senate agree to the same.

Amendment numbered 1140: That the House recede from its disagreement to the amendment of the Senate numbered 1140, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 336. Equalization of costs of production.

"(a) Change of classification or duties.—In order to regulate the foreign commerce of the United States and to put into force and effect the policy of Congress by this act intended, the commission (1) upon request of the President, or (2) upon resolution of either or both Houses of Congress, or (3) upon its own motion, or (4) when in the judgment of the commission there is good and sufficient reason therefor, upon application of any interested party, shall investigate the differences in the costs of production of any domestic article and of any like or similar foreign article produced in the principal competing country or countries. In the course of the investigation the commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The commission shall report to the President the results of the investigation and its findings with respect to such differences in costs of production. If the commission finds it shown by the investigation that the duties expressly fixed by statute do not equalize the differences in the costs of production of the domestic article and the like or similar foreign article when produced in the principal competing country, the commission shall recommend in its report such increases or decreases in rates of duty expressly fixed by statute (including any necessary change in classification) as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total increase or decrease of such rates of duty exceed 50 per cent of the rates expressly fixed by statute.

"(b) Change to American selling price.—If the commission finds upon any such investigation that such differences can not be equalized by proceeding as hereinbefore provided, it shall recommend in its report to the President a change in the basis of value to the American selling price (as defined in section 402(g) of this act) of the domestic article and such ad valorem rates of duty based upon such American selling price as it finds shown by the investigation to be necessary to equalize such differences. In no case shall the total decrease of such rates of duty exceed 50 per cent of the rates expressly fixed by statute, and no such rate shall be increased.

"(c) Proclamation by the President.—Within 60 days after the date any report of the commission is received by the President, he is authorized by proclamation to—

"(1) Approve the rates of duty and changes in classification and in basis of value recommended therein, if he is of opinion that such rates of duty and changes are necessary to equalize such differences in costs of production; or

"(2) Disapprove such rates of duty and changes if he is not of such opinion.

"(d) Effective date of the rates.—Commencing 10 days after the date of any presidential proclamation of approval the increased or decreased rates of duty and changes in classification or in basis of value recommended in the report of the commission shall take effect with respect to the foreign articles when imported from any foreign country into the United States or into any of its possessions except the Philippine Islands, the Virgin Islands, American Samoa, and the island of Guam. In the event the President makes no proclamation of approval or disapproval within such 60-day period, the commission shall immediately by order publicly declare such fact and the date of expiration of such period, and the increased or decreased rates of duty and the changes in classification or in basis of value recommended in the report of the commission shall, commencing 10 days after the expiration of such period, take effect with respect to the foreign articles when so imported.

"(e) Publication of commission's report.—At the time of making any proclamation under this section the President shall make public the report of the commission upon which the proclamation is based, and transmit a copy of the proclamation and the report to the Congress. If no proclamation with respect to a report of the commission is made within such 60-day period, then at the time of the expiration of such period the commission shall make public the report and transmit a copy thereof to the Congress. If the Congress is not in session at such time, the copy of the report and/or proclamation shall be transmitted at the commencement of the next session of the Congress.

"(f) Ascertainment of differences in costs of production.—In ascertaining the differences in costs of production under this section, the commission shall take into consideration, in so far as it finds it practicable:

"(1) In the case of a domestic article.—(A) The cost of production as hereinafter in this section defined; (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; and (C) other relevant factors that constitute an advantage or disadvantage in competition.

"(2) In the case of a foreign article.—(A) The cost of production as hereinafter in this section defined, or, if the commission finds that such cost is not readily ascertainable, the commission may accept as evidence thereof, or as supplemental thereto, the weighted average of the invoice prices or values of the foreign article for a representative period, and/or the average wholesale selling price for a representative period, which price shall be that at which the article is freely offered for sale to all purchasers in the principal market or markets of the principal competing country or countries in the ordinary course of trade and in the usual wholesale quantities in such market or markets; (B) transportation costs and other costs incident to delivery to the principal market or markets of the United States for the article; (C) other relevant factors that constitute an advantage or disadvantage in competition, including advantages granted to the foreign producers by a government, person, partnership, corporation, or association, or a foreign country.

"(g) Modification of changes in duty.—The commission and the President proceeding as hereinbefore provided for shall, if it is found that the differences in costs of production which led to an increase or decrease in a rate of duty or a change in classification or in basis of value under this section have changed or no longer exist, modify or terminate such increased or decreased rate or change in classification or in basis of value in accordance with such finding.

"(h) Prohibition against transfers from the free list to the dutiable list or from the dutiable list to the free list.—Nothing

in this section shall be construed to authorize a transfer of an article from the dutiable list to the free list or from the free list to the dutiable list, nor a change in form of duty. Whenever it is provided in any paragraph of Title I of this act, or in any amendatory act, that the duty or duties shall not exceed a specified ad valorem rate upon the articles provided for in such paragraph, no rate determined under the provisions of this section upon such articles shall exceed the maximum ad valorem rate so specified.

"(i) Definitions.—For the purpose of this section—

"(1) The term 'domestic article' means any article wholly or in part the growth or product of the United States; and the term 'foreign article' means an article wholly or in part the growth or product of a foreign country.

"(2) The term 'United States' includes the several States and Territories and the District of Columbia.

"(3) The term 'foreign country' means any empire, country, dominion, colony, or protectorate, or any subdivision or subdivisions thereof (other than the United States and its possessions).

"(4) The term 'cost of production,' when applied with respect to either a domestic article or a foreign article, includes, for a period which is representative of conditions in production of the article: (A) The price or cost of materials, labor costs, and other direct charges incurred in the production of the article and in the processes or methods employed in its production; (B) the usual general expenses, including charges for depreciation or depletion which are representative of the equipment and property employed in the production of the article and charges for rent or interest which are representative of the cost of obtaining capital or instruments of production; and (C) the cost of containers and coverings of whatever nature, and other costs, charges, and expenses incident to placing the article in condition packed ready for delivery.

"(j) Rules and regulations of President.—The President is authorized to make all needful rules and regulations for carrying out his functions under the provisions of this section.

"(k) Rules and regulations of Secretary of Treasury.—The Secretary of the Treasury is authorized to make such rules and regulations as he may deem necessary for the entry and declaration of foreign articles of the class or kind of articles with respect to which a change in basis of value has been made under the provisions of subdivision (b) of this section, and for the form of invoice required at time of entry.

"(l) Investigations prior to enactment of act.—All uncompleted investigations instituted prior to the approval of this act under the provisions of section 315 of the tariff act of 1922, including investigations in which the President has not proclaimed changes in classification or in basis of value or increases or decreases in rates of duty, shall be dismissed without prejudice; but the information and evidence secured by the commission in any such investigation may be given due consideration in any investigation instituted under the provisions of this section."

And the Senate agree to the same.

Amendment numbered 1151: That the House recede from its disagreement to the amendment of the Senate numbered 1151, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 339. Effect of reenactment of existing law: Notwithstanding the repeal by section 651 of the laws relating to the United States Tariff Commission and their reenactment in sections 330 to 338, inclusive, with modifications, the unexpended balances of appropriations available for the commission at the time this section takes effect shall remain available for the commission in the administration of its functions under this act; and such repeal and reenactment shall not operate to change the status of the officers and employees under the jurisdiction of the commission at the time this section takes effect. No investigation or other proceeding pending before the commission at such time (other than proceedings under section 315 of the tariff act of 1922) shall abate by reason of such repeal and reenactment, but shall continue under the provisions of this act."

And the Senate agree to the same.

Amendment numbered 1157: That the House recede from its disagreement to the amendment of the Senate numbered 1157, and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out by the Senate amendment insert the following:

"(4) In the case of an article with respect to which there is in effect under section 336 a rate of duty based upon the American selling price of a domestic article, then the American selling price of such article."

And the Senate agree to the same.

Amendment numbered 1171: That the House recede from its disagreement to the amendment of the Senate numbered 1171, and agree to the same with an amendment as follows: In lieu of the matter proposed to be stricken out by the Senate amendment insert "and in subdivision (j) of section 336 of this act"; and the Senate agree to the same.

Amendment numbered 1179: That the House recede from its disagreement to the amendment of the Senate numbered 1179, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"Furniture described in paragraph 1811 shall enter the United States at ports which shall be designated by the Secretary of the Treasury for this purpose. If any article described in paragraph 1811 and imported for sale is rejected as unauthentic in respect to the antiquity claimed as a basis for free entry, there shall be imposed, collected, and paid on such article, unless exported under customs supervision, a duty of 25 per centum of the value of such article in addition to any other duty imposed by law upon such article."

And the Senate agree to the same.

REED SMOOT,
JAMES E. WATSON,
SAMUEL M. SHORTRIDGE,
*Managers on the part of the Senate.*

W. C. HAWLEY,
ALLEN T. TREADWAY,
ISAAC BACHARACH,
*Managers on the part of the House.*

CALL OF THE ROLL

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 | Keyes | Shortridge |
| Ashurst | George | La Follette | Simmons |
| Baird | Gillett | McKellar | Smoot |
| Barkley | Glass | McMaster | Steck |
| Bingham | Glenn | McNary | Steiwer |
| Black | Goff | Metcalf | Stephens |
| Blaine | Goldsborough | Norbeck | Sullivan |
| Blease | Gould | Norris | Swanson |
| Borah | Greene | Nye | Thomas, Idaho |
| Bratton | Hale | Oddie | Thomas, Okla. |
| Brock | Harris | Overman | Townsend |
| Broussard | Harrison | Patterson | Trammell |
| Capper | Hatfield | Phipps | Tydings |
| Caraway | Hawes | Pine | Vandenberg |
| Connally | Hayden | Ransdell | Wagner |
| Copeland | Hebert | Reed | Walcott |
| Couzens | Heflin | Robinson, Ark. | Walsh, Mass. |
| Cutting | Howell | Robinson, Ind. | Walsh, Mont. |
| Dale | Johnson | Robsion, Ky. | Waterman |
| Deneen | Jones | Schall | Watson |
| Dill | Kean | Sheppard | Wheeler |
| Fess | Kendrick | Shipstead | |

Mr. TOWNSEND. I wish to announce the unavoidable absence of my colleague [Mr. HASTINGS]. I ask that this announcement may stand for the day.

Mr. SHEPPARD. I wish to announce that the Senator from Florida [Mr. FLETCHER] and the Senator from South Carolina [Mr. SMITH] are detained from the Senate by illness.

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

ADJOURNMENT OVER DECORATION DAY

Mr. WATSON. Mr. President, I ask unanimous consent that when the Senate concludes its business on Thursday, May 29, it adjourn over until the following Monday at 12 o'clock noon.

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

PETITIONS AND MEMORIALS

Mr. JONES presented a petition of sundry citizens of Hoquiam and vicinity in the State of Washington, praying for the passage of the so-called Rankin bill, being the bill (H. R. 10381) to amend the World War veterans' act, 1924, as amended, which was referred to the Committee on Finance.

Mr. DILL presented a petition of sundry citizens of Port Angeles and vicinity in the State of Washington, praying for the passage of the so-called Rankin bill, being the bill (H. R. 10381) to amend the World War veterans' act, 1924, as amended, which was referred to the Committee on Finance.

Mr. BLAINE presented a resolution of the Wisconsin Federation of Business and Professional Women's Clubs, favoring the passage of the so-called Goodwin bill, relative to the maternity and infancy act, commonly known as the Sheppard-Towner Act, and opposing the passage of House bill 9888, the so-called

Cooper bill on the same subject, which was ordered to lie on the table.

He also presented resolutions adopted by the Board of Supervisors of Sawyer County, Wis., protesting against the use of butter substitutes in Federal institutions, which were referred to the Committee on Agriculture and Forestry.

He also presented a resolution of the Women's Federated Clubs, of Platteville, Wis., favoring the passage of legislation for the Federal supervision of motion pictures, and establishing higher standards before production of films that are to be licensed for interstate and foreign commerce, which was referred to the Committee on Interstate Commerce.

Mr. HEBERT. I present resolutions adopted by members of McKenna-McAllister Post, No. 592, Veterans of Foreign Wars of the United States, at Providence, R. I., favoring action by the Government to send the mothers and wives of deceased World War veterans on a pilgrimage to Arlington National Cemetery, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objections, the resolutions were referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

PROVIDENCE, R. I., *May 17, 1930.*

Whereas the Government of the United States of America is sending the mothers and wives of our buddies who now lie in American cemeteries in France on a pilgrimage to visit the graves of their loved ones; and

Whereas we view with approval and appreciation this gracious act of our Government; and

Whereas we believe that many mothers and wives of heroes that now are at rest in Arlington, the national shrine, would welcome the opportunity to visit the resting place of the Nation's heroes: Be it

*Resolved,* That the members of McKenna-McAllister Post, No. 592, Veterans of Foreign Wars, in regular meeting assembled, May 16, 1930, hereby and do approve of such a visitation; and be it further

*Resolved,* That a copy of this resolution be spread over the records of the minutes of this meeting, that copies be furnished the press in the city of Providence, that copies be forwarded the State department headquarters of the Veterans of Foreign Wars and the American Legion, and also to the Rhode Island delegation in the Congress in Washington.

Unanimously adopted in regular meeting May 16, 1930.

MCKENNA-MCALLISTER POST, No. 592,
VETERANS OF FOREIGN WARS OF THE UNITED STATES,
FRED S. BARNES, *Commander.*

Attest:
[SEAL.] J. P. RILEY, *Adjutant.*

THE OIL INDUSTRY

Mr. SHEPPARD. Mr. President, I present for publication in the RECORD a statement issued by the Independent Oil Association of Texas, which appeared in the Anti-Chain World, of Temple, Tex., on April 18, 1930.

The VICE PRESIDENT. Without objection it is so ordered. The statement is as follows:

[From Anti-Chain World, Temple, Tex., April 18, 1930]

FACTS ABOUT OIL INDUSTRY TO BE CONSIDERED BY LAWMAKERS AND EVERY CITIZEN OF TEXAS

Do you know that the last cut in the price of crude oil, inaugurated by the subsidiary of the Standard Oil Co., is costing the State of Texas $4,000 per day in gross production tax revenue alone?

Do you know that it is also costing the university and school fund over $1,000 per day? Do you know that during 1926, the State of Texas produced 166,916,000 barrels of oil which sold for $308,700,000, or an average price per barrel of $1,849, and in 1928 Texas produced 257,300,000 barrels which only had a market value of $246,300,000, or an average of $0.918 per barrel, or less than half of the market value per barrel in 1926? Although the State produced 90,404,000 barrels more during 1928 than it did in 1926, the revenue derived from the sale of oil in 1928 is $72,400,000 less, which, figuring the loss to the State on gross production tax of the 2 per cent, is nearly one million and a half dollars per year.

Do you know that gasoline did sell for the same price in 1928 that it did in 1926, which shows that the price of crude has no effect on the price of gasoline to the consumer?

Do you know that the pipe-line companies of Texas charge 62½ cents per barrel to transport oil from Gray County, Tex., to the Gulf, which is over 50 per cent of the price paid for the crude at the well?

Do you know that these same pipe-line companies charge 55 cents per barrel to transport oil from west Texas to the Gulf and that the average price paid for the crude at the well in west Texas is less than $1 per barrel?

Do you know that one of the subsidiaries of the Standard Oil Co. admitted profits for the year of 1929 of $32,000,000, mostly from their operations in Texas?

Do you know that the 2 per cent deductions that these same pipe-line companies make against the producers and the royalty owners on oil run through their lines amounted to 5,140,000 barrels in 1928?

Do you know that where a monopoly exists on petroleum products, such as in Bogota, Argentina, Italy, England, France, Australia, and in Venezuela, the last named having the biggest oil fields in the world (which are controlled by a monopoly), the average price of gasoline per gallon is 39 cents? This condition will exist when the independent producers have been put out of business in this country.

Do you know that the Standard Oil Co. of New Jersey, Standard Oil Co. of New York, the Mellon interests, and the Shell Corporation are the principal importers of nearly 300,000 barrels of foreign oil a day that is brought into this country duty free and tax free in competition with the crude oil produced in west Texas?

Do you know that competent engineers have estimated that the States of California, Oklahoma, and Texas can produce enough oil to last this country at the present rate of consumption for the next 300 years?

Do you know that in San Antonio, Tex., where an independent refiner has been trying to stay in business, the price of gasoline is lower than any other point in the State of Texas?

Do you believe this is a coincidence when every other large distributor of gasoline also sells their products there and you drive 50 miles from San Antonio and these same major distributors of gasoline charge from 5 to 7 cents more per gallon to the consumer?

Did you notice that when the University of Texas regents, within the last month, asked for bids on the university lands in west Texas with leases carrying one-sixth royalty on the oil produced that not one major company offered to bid? Would you believe for a minute that this was a coincidence that none of these big companies would bid on this land if it had not been prearranged? We ask you.

Wake up. Don't let a monopoly control the great resources of Texas. To do so will eventually eliminate every independent producer, royalty owner, and refiner of oil, and which will finally result in exorbitant prices being charged the consumer of all refined products.

Help preserve the independent producer in Texas, as he is the only barrier between monopolistic control of the greatest resource the State of Texas has and which is the principal income for the University of Texas.

INDEPENDENT OIL ASSOCIATION OF TEXAS.

REPORTS OF COMMITTEES

Mr. COPELAND, from the Committee on the District of Columbia, to which was referred the bill (H. R. 11403) to amend an act entitled "An act to create a revenue in the District of Columbia by levying tax upon all dogs therein, to make such dogs personal property, and for other purposes," as amended, reported it without amendment and submitted a report (No. 723) thereon.

Mr. KENDRICK, from the Committee on Indian Affairs, to which was referred the bill (S. 615) authorizing an appropriation for payment to the Uintah, White River, and Uncompahgre Bands of Ute Indians in the State of Utah for certain lands, and for other purposes, reported it with amendments and submitted a report (No. 725) thereon.

Mr. ROBINSON of Indiana, from the Committee on Pensions, to which was referred the bill (H. R. 12302) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported it with amendments, and submitted a report (No. 726) thereon.

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

H. R. 11228. An act granting the consent of Congress to the State of Illinois to construct a bridge across the Rock River south of Moline, Ill. (Rept. No. 727);

H. R. 11240. An act to extend the times for commencing and completing the construction of a bridge across the Monongahela River at Pittsburgh, Allegheny County, Pa. (Rept. No. 728);

H. R. 11430. An act granting the consent of Congress to the State of New York to construct, maintain, and operate a free highway bridge across the Hudson River at or near Catskill, Greene County, N. Y. (Rept. No. 729); and

H. R. 11435. An act granting the consent of Congress to the city of Rockford, Ill., to construct a bridge across the Rock River at Broadway in the city of Rockford, Winnebago County, State of Illinois (Rept. No. 730).

NAVAL APPROPRIATIONS

Mr. PHIPPS. From the Committee on Appropriations I report back favorably with amendments the bill (H. R. 12236) making appropriations for the Navy Department and the naval service for the fiscal year ending June 30, 1931, and for other purposes, and I submit a report (No. 724) thereon. I desire to state that I shall call up the bill for consideration at an early convenient opportunity.

The VICE PRESIDENT. The bill will be placed on the calendar.

ATTENDANCE OF MARINE BAND AT GRAND ARMY ENCAMPMENT

Mr. HALE. From the Committee on Naval Affairs I report back favorably without amendment the bill (H. R. 10082) to authorize the attendance of the Marine Band at the National Encampment of the Grand Army of the Republic at Cincinnati, Ohio, and I submit a report (No. 722) thereon.

Mr. FESS. Mr. President, I ask unanimous consent for the immediate consideration of the bill.

The VICE PRESIDENT. Is there objection?

There being no objection, the bill was read, considered, ordered to a third reading, read the third time, and passed, as follows:

*Be it enacted, etc.*, That the President is authorized to permit the band of the United States Marine Corps to attend and give concerts at the National Encampment of the Grand Army of the Republic to be held at Cincinnati, Ohio, during the week beginning August 24, 1930.

SEC. 2. For the purpose of defraying the expenses of such band in attending and giving concerts at such reunion there is authorized to be *appropriated* the sum of $5,532.26, or so much thereof as may be necessary, to carry out the provisions of this act: *Provided*, That in addition to transportation and Pullman accommodations the leaders and members of the Marine Band be allowed not to exceed $5 per day each for actual living expenses while on this duty, and that the payment of such expenses shall be in addition to the pay and allowances to which they would be entitled while serving at their permanent station.

REPORT OF POSTAL NOMINATIONS

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

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. COPELAND:

A bill (S. 4572) for the relief of Annie M. Eopolucci; to the Committee on Claims.

By Mr. DENEEN:

A bill (S. 4573) to give the Supreme Court of the United States authority to make and publish rules in common-law actions; to the Committee on the Judiciary.

By Mr. METCALF:

A bill (S. 4574) granting an increase of pension to Celia Frances Langworthy (with accompanying papers); to the Committee on Pensions.

By Mr. SWANSON:

A bill (S. 4575) for the relief of the James River Bridge Corporation; to the Committee on Commerce.

A bill (S. 4576) to provide for an investigation as to the location and probable cost of a southern approach road to the Arlington Memorial Bridge, and for other purposes; to the Committee on Post Offices and Post Roads.

By Mr. JONES:

A bill (S. 4577) to extend the time for completing the construction of a bridge across the Columbia River between Longview, Wash., and Rainier, Oreg.; to the Committee on Commerce.

By Mr. CAPPER:

A bill (S. 4578) to define and punish vagrancy in the District of Columbia; and

A bill (S. 4579) to control the possession, sale, transfer, and use of dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes; to the Committee on the District of Columbia.

By Mr. WATSON:

A bill (S. 4580) authorizing retirement pay for Assistant Comptrollers General retired after 45 years of Government service; to the Committee on Civil Service.

By Mr. ROBINSON of Indiana:

A bill (S. 4581) granting an increase of pension to Nannie Hall (with accompanying papers); to the Committee on Pensions.

By Mr. GILLETT:

A bill (S. 4582) to amend section 305 (a) of the tariff act of 1922, as amended, and sections 211, 245, and 312 of the Criminal Code, as amended; to the Committee on the Judiciary.

By Mr. HOWELL:

A bill (S. 4583) to amend the act entitled "An act authorizing the construction of a bridge across the Missouri River opposite to or within the corporate limits of Nebraska City, Nebr.," approved June 4, 1872; to the Committee on Commerce.

By Mr. BLEASE:

A joint resolution (S. J. Res. 184) to declare July 5, 1930, a legal holiday for all banks and trust companies, the officials and employees thereof, in the District of Columbia; to the Committee on the District of Columbia.

By Mr. WAGNER:

A joint resolution (S. J. Res. 185) for the participation of the United States in an exposition to be held at Paris, France, in 1931; to the Committee on Foreign Relations.

MERGER OF GEORGETOWN AND WASHINGTON GAS LIGHTS COS.

Mr. HOWELL submitted an amendment intended to be proposed by him to the bill (S. 4066) to authorize the merger of the Georgetown Gas Light Co. with and into the Washington Gas Light Co., and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

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

At the proper place in the bill insert the following:

"HOTEL AT WEST POINT

"For compensation, as provided by the act of March 30, 1920 (41 U. S. Stat. L. 548), for all buildings, appurtenances, and equipment located and situated on all that tract of land on the United States Military Reservation at West Point, N. Y., lying between the southern boundary line of said reservation and a line 600 feet north of, and parallel to, said southern boundary line and east of the main road leading through said reservation, the lease to which is hereby canceled and terminated, the sum of $1,702,275.86, payable to the duly appointed trustee in bankruptcy of the corporation owning the lease and property described herein."

PRINTING OF PROCEEDINGS AT UNVEILING OF STATUE OF GEN. JOHN CAMPBELL GREENWAY

Mr. ASHURST and Mr. HAYDEN submitted the following concurrent resolution (S. Con. Res. 29), which was ordered to lie on the table:

*Resolved by the Senate (the House of Representatives concurring)*, That there be printed, with illustrations and bound, 5,000 copies of the proceedings in Congress, together with the proceedings held at the unveiling in Statuary Hall, upon the acceptance of the statue of Gen. John Campbell Greenway, presented by the State of Arizona, of which 1,000 shall be for the use of the Senate and 2,500 for the use of the House of Representatives, and the remaining 1,500 copies shall be for the use and distribution of the Senators and Representative in Congress from the State of Arizona.

The Joint Committee on Printing is hereby authorized to have the copy prepared for the Public Printer and shall procure suitable illustrations to be published with these proceedings.

APPROVAL IN PRINCIPLE OF THE "AMERICAN FAIR"

Mr. KEAN. Mr. President, I submit a resolution, which I ask to have read, and I ask for its immediate consideration.

The VICE PRESIDENT. The resolution will be read for the information of the Senate.

The legislative clerk read the resolution (S. Res. 276), as follows:

Whereas the employment by American industry of exhibits, so that their products might be brought to the attention of the consuming public, has been recognized as an intelligent means of disseminating knowledge regarding those products and bringing seller and buyer into closer touch; and

Whereas there has been erected in the city of Atlantic City, in the State of New Jersey, the largest auditorium in the world, in which such exhibits may be shown; and

Whereas a national exhibition has been arranged during the period of July 17 to August 27, 1930, in this auditorium, to be designated as the "American Fair," at which time the public may become acquainted with methods used in the manufacture of the articles so displayed: Therefore be it

*Resolved*, That approval in principle is hereby expressed of the exhibit known as the "American Fair" as an intelligent method of bringing producer and purchaser together.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

REIMBURSEMENT OF CALIFORNIA

Mr. JOHNSON submitted the following resolution (S. Res. 277), which was ordered to lie over under the rule:

*Resolved*, That the Comptroller General of the United States be directed to reopen and restate the account of the State of California for moneys advanced and expended in aid of the Government of the United States during the War between the States, and on such restatement (1)

to accept as a basis of calculation the grand total sum actually expended by and not repaid the State of California on July 1, 1889, stated in the account set forth in the report of the Secretary of War made in pursuance of resolution of the Senate of February 27, 1889, printed in Senate Executive Document No. 11, Fifty-first Congress, first session, page 27; (2) to add to such sum the interest certified by the treasurer of the State of California as actually paid by said State on the sums so advanced and expended from July 1, 1889, to December 31, 1929; (3) to deduct from the total sum so stated the amounts repaid by the United States to the State of California since July 1, 1889, and certify to the Senate the balance found due the State of California.

PROTESTS AGAINST THE TARIFF BILL

Mr. THOMAS of Oklahoma submitted the following resolution (S. Res. 278), which was read:

Whereas foreign governments have filed with the Secretary of State protests against the enactment of the pending tariff bill: Therefore be it

*Resolved*, That the Secretary of State be, and he is hereby, requested to transmit such protests and communications to the President of the Senate for the information of the Congress.

Mr. THOMAS of Oklahoma. The resolution simply asks the Secretary of State to send to the Senate, for the information of Congress, the protests on file in that department against the tariff bill. I ask unanimous consent for the immediate consideration of the resolution.

The VICE PRESIDENT. Is there objection?

There being no objection, the resolution was considered and agreed to.

The preamble was agreed to.

AMENDMENT OF THE RULES

Mr. VANDENBERG. Mr. President, I move to add to the Standing Rules of the Senate a rule relating to river and harbor projects, as follows:

*Resolved*, That the Standing Rules of the Senate be, and they are hereby, amended by adding, after Rule XX, a new rule relating to river and harbor projects, as follows:

"RULE XXI. When a rivers and harbors authorization bill is pending a point of order may be made against the authorization of any project in any form not formally recommended to the Congress in an official report of the Board of Engineers for Rivers and Harbors."

The PRESIDING OFFICER (Mr. FESS in the chair). The resolution (S. Res. 279) will be referred to the Committee on Rules.

PENSIONS AND INCREASE OF PENSIONS

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 12205) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBINSON of Indiana. I move that the Senate insist on its amendments, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ROBINSON of Indiana, Mr. NORBECK, and Mr. WHEELER conferees on the part of the Senate.

EXECUTIVE MESSAGES AND APPROVALS

Messages in writing were communicated to the Senate from the President of the United States by Mr. Latta, one of his secretaries, who also announced that the President approved and signed the following acts:

On May 23, 1930:

S. 548. An act for the relief of retired and transferred members of the Naval Reserve Force, Naval Reserve, and Marine Corps Reserve;

S. 4015. An act to provide for plant patents;

S. 4119. An act to extend the provisions of section 2455 of the Revised Statutes of the United States (U. S. C., title 43, sec. 1171), as amended, to coal lands in Alabama;

S. 428. An act to authorize the transfer of the former naval radio station, Seawall, Me., as an addition to the Acadia National Park;

S. 3185. An act to authorize the Secretary of the Navy to dispose of material no longer needed by the Navy; and

S. 3585. An act to eliminate certain land from the Tusayan National Forest, Ariz., as an addition to the Western Navajo Indian Reservation.

On May 26, 1930:

S. 1171. An act to establish and operate a national institute of health, to create a system of fellowships in said institute, and to authorize the Government to accept donations for use in ascertaining the cause, prevention, and cure of disease affecting human beings, and for other purposes; and

S. 3934. An act granting certain lands to the city of Sault Ste. Marie, State of Michigan.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated below:

H. R. 48. An act donating bronze trophy guns to the Cohoes Historical Society, Cohoes, N. Y.;

H. R. 2185. An act for the relief of Edwin G. Blanchard;

H. R. 3935. An act for the relief of Eugenia A. Helston;

H. R. 4050. An act donating trophy gun to F. D. Hubbel Relief Corps, No. 103, of Hillsboro, Ill.;

H. R. 5213. An act for the relief of Grant R. Kelsey, alias Vincent J. Moran;

H. R. 6348. An act donating trophy guns to Varina Davis Chapter, No. 1980, United Daughters of the Confederacy, Macclenny, Fla.;

H. R. 7484. An act for the relief of Edward R. Egan;

H. R. 9425. An act to authorize the Secretary of War to donate a bronze cannon to the city of Martins Ferry, Ohio;

H. R. 10310. An act for the relief of Samuel Pelfrey; and

H. R. 10737. An act for the relief of G. W. Gilkison; to the Committee on Military Affairs.

H. R. 320. An act for the relief of Haskins & Sells;

H. R. 328. An act for the relief of Parke, Davis & Co.;

H. R. 329. An act for the relief of Joseph A. McEvoy;

H. R. 478. An act for the relief of Marijune Cron;

H. R. 523. An act for the relief of Benjamin C. Lewis and Bessie Lewis, his wife;

H. R. 573. An act for the relief of Barzilla William Bramble;

H. R. 593. An act for the relief of First Lieut. John R. Bailey;

H. R. 650. An act for the payment of damages to certain citizens of California and other owners of property damaged by the flood caused by reason of artificial obstructions to the natural flow of water being placed in the Picacho and No-name Washes by an agency of the United States;

H. R. 655. An act for the relief of Guy E. Tuttle;

H. R. 669. An act for the relief of Seth J. Harris;

H. R. 692. An act for the relief of Ella E. Horner;

H. R. 794. An act for the relief of C. B. Smith;

H. R. 885. An act for the relief of George F. Newhart, Clyde Hahn, and David McCormick;

H. R. 887. An act for the relief of Mary R. Long;

H. R. 913. An act for the relief of Belle Clopton;

H. R. 917. An act for the relief of John Panza and Rose Panza;

H. R. 919. An act for the relief of the father of Catharine Kearney;

H. R. 936. An act for the relief of Glen D. Tolman;

H. R. 939. An act for the relief of Mary J. Dee;

H. R. 1029. An act for the relief of Arthur D. Story, assignee of Jacob Story, and Harris H. Gilman, receiver for the Murray & Thregurtha plant of the National Motors Corporation;

H. R. 1057. An act for the relief of John W. Adair;

H. R. 1063. An act for the relief of Alice Hipkins;

H. R. 1076. An act for the relief of Jacob S. Steloff;

H. R. 1499. An act for the relief of C. O. Crosby;

H. R. 1546. An act for the relief of Thomas Seltzer;

H. R. 1696. An act for the relief of Lieut. Timothy J. Mulcahy, Supply Corps, United States Navy;

H. R. 1724. An act for the relief of Margaret Lemley;

H. R. 1759. An act for the relief of Laura A. DePodesta;

H. R. 1825. An act for the relief of David McD. Shearer;

H. R. 1888. An act for the relief of Rose Lea Comstock;

H. R. 1944. An act for the relief of Bruce Bros. Grain Co.;

H. R. 1964. An act for the relief of S. A. Jones;

H. R. 2175. An act for the relief of the Great Western Coal Mines Co.;

H. R. 2222. An act for the relief of Laurin Gosney;

H. R. 2458. An act for the relief of Darold Brundige;

H. R. 2645. An act for the relief of Homer Elmer Cox;

H. R. 2776. An act for the relief of Dr. Charles F. Dewitz;

H. R. 2810. An act for the relief of Katherine Anderson;

H. R. 2849. An act for the relief of the Lowell Oakland Co.;

H. R. 2876. An act for the relief of J. C. Peixotto;

H. R. 3072. An act for the relief of Peterson-Colwell (Inc.);

H. R. 3422. An act for the relief of Gustav J. Braun;

H. R. 3430. An act for the relief of Anthony Marcum;

H. R. 3764. An act for the relief of Ruban W. Riley;

H. R. 4469. An act for the relief of Second Lieut. Burgo D. Gill;

H. R. 5962. An act for the relief of R. E. Marshall;

H. R. 6117. An act for the relief of the Central of Georgia Railway Co.;

H. R. 6209. An act for the relief of Dalton G. Miller;

H. R. 6210. An act to authorize an appropriation for the relief of Joseph K. Munhall;

H. R. 6227. An act for the relief of Elizabeth Lynn;

H. R. 6663. An act for the relief of J. N. Lewis;

H. R. 7205. An act for the relief of Lamirah F. Thomas;

H. R. 7464. An act for the relief of Robert R. Strehlow;

H. R. 8589. An act for the relief of Charles J. Ferris, major, United States Army, retired;

H. R. 8591. An act for the relief of Henry Spight;

H. R. 8836. An act for the relief of the French Co. of Marine & Commerce;

H. R. 9123. An act for the relief of Francis Linker;

H. R. 9246. An act to reinburse Lieut. Col. Frank J. Killilea; and

H. R. 10317. An act for the relief of Samuel S. Michaelson; to the Committee on Claims.

H. R. 851. An act for the relief of Richard Kirchhoff;

H. R. 1155. An act for the relief of Eugene A. Dubrule;

H. R. 1160. An act for the relief of Henry P. Biehl;

H. R. 2587. An act for the relief of James P. Sloan;

H. R. 2626. An act for the relief of George Joseph Boydell;

H. R. 2887. An act for the relief of Mildred L. Williams;

H. R. 2951. An act granting six months' pay to Frank J. Hale;

H. R. 3175. An act to authorize Lieut. Commander James C. Monfort, of the United States Navy, to accept a decoration conferred upon him by the Government of Italy;

H. R. 3610. An act for the relief of William Geravis Hill;

H. R. 3801. An act waiving the limiting period of two years in Executive Order No. 4576 to enable the Board of Awards of the Navy Department to consider recommendation of the award of the distinguished-flying cross to members of the Alaskan Aerial Survey Expedition;

H. R. 4206. An act authorizing the Secretary of the Navy, in his discretion, to loan to the city of Olympia, State of Washington, the silver service set and bronze tablet in use on the U. S. cruiser *Olympia*;

H. R. 5611. An act for the relief of William H. Behling;

H. R. 6076. An act authorizing the Secretary of the Navy to sell to Frank Miller, of Riverside, Calif., the bell formerly in use on the U. S. S. *Sylph*;

H. R. 6186. An act for the relief of Frank Storms;

H. R. 9109. An act authorizing the Secretary of the Navy, in his discretion to deliver to the custody of the Jefferson Memorial Association of St. Louis, Mo., the ship's bell, builder's label plate, a record of war services, letters forming ship's name, and silver service of the cruiser *St. Louis* that is now or may be in his custody; and

H. R. 9975. An act for the relief of John C. Warren, alias John Stevens; to the Committee on Naval Affairs.

H. R. 3203. An act to authorize the city of Salina and the town of Redmond, State of Utah, to secure adequate supplies of water for municipal and domestic purposes through the development of subterranean water on certain public lands within said State;

H. R. 7299. An act for the relief of Hannah Odekirk;

H. R. 9169. An act for the relief of the successors of Luther Burbank;

H. R. 9198. An act to remove cloud as to title of lands at Fort Lyttleton, S. C.; and

H. R. 9987. An act to provide for the relinquishment by the United States of certain lands to the city of Rupert in the county of Minidoka, in the State of Idaho; to the Committee on Public Lands and Surveys.

H. R. 8479. An act to amend section 7 of Public Act No. 391, Seventieth Congress, approved May 15, 1928; and

H. R. 12131. An act granting the consent of Congress to the Commonwealth of Pennsylvania to construct, maintain, and operate a free highway bridge across the Allegheny River at or near Kittanning Armstrong County, Pa.; to the Committee on Commerce.

H. R. 9824. An act for the relief of the owners of the French bark *France*; to the Committee on Foreign Relations.

H. R. 10117. An act authorizing the payment of grazing fees to E. P. McManigal; to the Committee on Indian Affairs.

PERMITS FOR WATER-POWER SITES

Mr. SHIPSTEAD. Mr. President, on the 19th instant I introduced a joint resolution (S. J. Res. 181) prohibiting the Federal Power Commission from granting further permits or licenses for the development of water-power sites, which was ordered to lie on the table. I ask unanimous consent for its present consideration.

Mr. McNARY. Mr. President, the joint resolution introduced by the Senator from Minnesota is now on the desk of the Vice President and probably could not be reached for some days. After conferring with the chairman of the Committee on Interstate Commerce, Mr. COUZENS, it is my opinion, in view of the parliamentary and legislative situation, that reference should be made to a committee.

Mr. SHIPSTEAD. Can the chairman of the committee give us some information as to when we can get some action on it?

Mr. COUZENS. Mr. President, I can assure the Senator from Minnesota that we will have a committee meeting on Wednesday or Thursday of this week, and I shall take it up with the committee and endeavor to get prompt action. I think the members of the committee are quite familiar with the subject and will not take undue time to consider it. It is a subject matter which has been heard by the committee for many days, and I think they are quite familiar with it and with the Senator's resolution. If it is referred to the committee, I can assure him of prompt consideration of it.

Mr. SHIPSTEAD. The Senator thinks it ought to go to the committee on account of being a joint resolution?

Mr. COUZENS. I think so. I think it is a subject matter that properly should be considered by the Interstate Commerce Committee.

Mr. ROBINSON of Arkansas. Mr. President, may I ask what is the subject matter of the resolution?

Mr. COUZENS. It is proposed to stop the issuance of water-power licenses by the present Federal Power Commission.

Mr. SHIPSTEAD. It provides that there shall be no license issued until the new power commission is organized and ready to do business.

The PRESIDING OFFICER. The joint resolution will be referred to the Committee on Interstate Commerce.

TARIFF ON CEMENT

Mr. BLEASE. Mr. President, I ask unanimous consent to have printed in the RECORD the translation of a leading article published by Neptune, the principal commercial and maritime newspaper of Antwerp, Belgium, under date of May 6, 1930; also a letter addressed to me by Albert V. Moore, president of Moore & McCormack Co. (Inc.), inclosing a copy of a letter written by him to the Senators from New York [Mr. COPELAND and Mr. WAGNER] on the cement tariff.

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

The translation and letters referred to are as follows:

[Translation of a leading article published by Neptune, the principal commercial and maritime newspaper of Antwerp, under date of May 6]

THE BELGIAN INDUSTRY MUST BE PROTECTED AGAINST THE NEW AMERICAN TARIFF BILL

The hope which had been cherished for a certain time that the American Legislature would rescind its first decisions on the increase of the customs duties has been denied.

So it is, that the possible final approval of the new tariff and the imminent danger presented to a great number of European industries to find themselves closed out of the American market have not failed to create a notable reaction in most of the European countries.

In France, for instance, where the lace industry of the north has been the particular target of the new duties, it developed a great movement of protests. A manifestation 40,000 strong, comprising employers and workers, paraded recently the streets of Calais.

The commotion created in France compelled the French Government to examine the opportunity of answering the Americans by a menace of an increase in the tariff on autos and accessories, the proposed duties being susceptible or eventually closing the French market to the American exporters of the automobile industry.

The United States have not been insensible to the intentions of the French Government, the interparliamentary conference forthwith rejected the proposed raise in duty on laces, as had been proposed by the Senate.

In Switzerland, also, violent protests have been raised against the American projects, of which the final vote is bound to have a nefarious repercussion on the watch industry as well as on the cotton industry of St. Gall.

On April 28 a great manifestation gathered at Bienne, where more than 15,000 people protested against the exaggerated American duties; retaliatory measures are now being considered.

On the other hand, the syndicate of master watchmakers, gathered in a general meeting at Chaux-de-Fonds, decided to intercede with the Federal council for the study of increased export duties on Swiss watchmakers' supplies exported to the United States and necessary to the American manufacturers. Furthermore, the syndicate has urged the public to abstain from buying automobiles, writing machines, and other products of American origin.

In Geneva the chamber of commerce decided to call a general meeting in order to take position against the United States' new tariff bill.

On the other hand, the cotton industry of eastern Switzerland proposes a boycott against American petroleum products, as the Anglo-Persian Oil Co., can very well take care of the Swiss wants.

In Belgium several industrial branches are strongly menaced by the new tariff bill; cement and plate glass works are particularly affected, as the proposed duties are positively prohibitive.

As the minister of foreign relations recently admitted in an answer to Senator Boel, it would appear as if the products interesting chiefly Belgian exportation are the ones mostly menaced, although Belgium is one of the countries more readily accessible to the agricultural and industrial exports of the United States.

In 1929 Belgium absorbed 3,375,000,000 francs of American products, with an increase of one-half billion over the imports of 1928 from the same origin.

Against this the Belgian exports to the United States fell down in 1929 by nearly 50,000,000 over the figures of the preceding year.

On the other hand, the balance of commercial exchanges between the two countries is noteworthy; it indicates a considerable deficit for Belgium; from less than a half billion in 1928, this deficit increased to over a billion in 1929.

In regard to cement especially, which constitutes one of our principal monetary exchange with the United States, it should be noted that our exports to that country only represent 0.67 per cent of the American production; the prejudice which these exports might cause to the American cement industry, whose great prosperity is well known, is insignificant.

Exports of Belgian cement to the United States have not awaited the vote on the new tariff bill to considerably diminish; the mere menace of the American producers to use retaliatory measures against the importers of Belgian cement has already borne fruit because our exports, which in 1926 were of 370,000 tons, have dwindled to 195,000 tons in 1929.

The regression in exports of this product in the two first months of the last three years is striking—from 58,000 tons in 1928 they fell to 33,000 tons in 1929, finally to drop to less than 24,000 tons in 1930.

In view of this situation, which imperils certain industries of ours, it is necessary to consider energetic measures of reciprocity.

The Americans will not become sensible to our arguments as long as we can not strike them in their own exports by creating new duties or increasing those existing upon certain products, and especially automobiles and separate parts thereof, with which they are flooding our country.

The prohibitive measures contemplated by the United States to reduce our exports are of a nature to justify on the part of our Government energetic retaliations. Our commercial intercourse with the United States is regulated by the treaty of 1875, with the reciprocal clause of the most-favored nation; if the new duties are passed it behooves that this treaty be denounced.

The country could not understand our resignation before the American intransigency.

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NEW YORK, *May 21, 1930.*

Hon. COLE. L. BLEASE,

*United States Senate, Washington, D. C.*

MY DEAR SENATOR: We have written Senators ROYAL S. COPELAND and ROBERT F. WAGNER of New York on the cement tariff and send you herewith copy of our letter, which we recommend to your kind consideration and urge you, if it is not possible to restore cement to the free list subject to countervailing duties, to at least support the Blease amendment, which will permit free entry of cement for public purposes.

Respectfully yours,

AMERICAN SCANTIC LINE (INC.),
A. V. MOORE, *President.*

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NEW YORK, *May 21, 1930.*

According to the statistical and economic surveys of the Department of Commerce, Bureau of Mines, mineral statistics division, the total production of Portland cement in the United States in 1929 amounted to 170,198,000 barrels, and the imports to 1,727,900 barrels.

Eastern Pennsylvania, New Jersey, Maryland, New York, Maine, and Virginia, serving the North Atlantic area, produced about 50,000,000 barrels of the total domestic production.

New York and Maine in 1929 produced 11,408,000 barrels compared with 11,484,000 barrels in 1928.

New York State consumes about 22,000,000 barrels annually and the metropolitan area of New York in excess of 12,000,000 barrels annually.

Imports into northern Atlantic ports during 1929 were:

| | Barrels |
|---|---|
| Maine and New Hampshire | 5,740 |
| Massachusetts | 280,501 |
| Rhode Island | 35,750 |
| New York | 312,978 |
| Philadelphia | 71,333 |
| | 706,302 |

Of the 312,978 barrels of all classes of cement imported into New York the principal countries of origin were:

| | Barrels |
|---|---|
| United Kingdom | 158,793 |
| Belgium | 73,320 |
| Denmark | 74,577 |

About 75 per cent of these imports were carried by American-flag vessels.

We are operators of 10 American-flag vessels from North Atlantic ports to Baltic ports. These vessels carry to the Scandinavian countries full cargoes of miscellaneous manufactured materials, grain, and other farm products, whereas the return cargoes from these countries are practically limited to wood pulp and Portland cement.

Prior to the inception of the United States Shipping Board, there were no American vessels operating in this trade. Under section 7 of the act of 1920 the United States Government created what is now known as American Scantic Line, having determined that it was an essential service for the promotion of foreign commerce to the United States as well as the steamers engaged therein being valuable auxiliaries to the United States Navy.

The inauguration of this service to the Scandinavian countries has increased the exports of our manufactured products as well as farm products to enormous proportions.

During previous years the total voyages made averaged about 30, but last year, that is 1929, and hereafter under the postal act we are compelled to have 52 voyages a year to the Scandinavian-Baltic countries.

Last year our exports to Denmark amounted to $51,444,000, whereas our imports were only $4,563,000, of which 10 per cent was cement.

Any tariff or trade barriers which would further restrict the importation of the commodities from Scandinavian countries would necessarily mean the returning of our vessels without cargo, thereby compelling an increase in outward freight rates to pay for the round voyage. This increase of course would fall on the exporters of our manufactured products, grain, and other farm products, and in many instances would be sufficient to defeat their sales to the Scandinavian countries by reason of the competition with other countries.

The Portland cement industry, under free-trade conditions, has enjoyed an enormous expansion. In 1921 the total annual business of the Portland cement industry was 95,507,000 barrels; last year 170,000,000 barrels. The industry has been prosperous as a whole, with the exception of a few companies whose plants are badly located or whose stocks are badly watered.

Hudson River mills are shipping to New York by lighter at a cost of 15 cents per barrel against a freight rate from Pennsylvania mills of 38 to 40 cents a barrel. This in itself is protection for the Hudson River mills.

Imported cement pays a freight rate of about 55 cents per barrel, and labor expended for handling imported shipments in port exceeds the labor cost per barrel of any modern cement mill.

In view of the foregoing facts, we are opposed to a duty on Portland cement, and we know that any duty placed upon Portland cement will give the domestic industry a monopoly to the detriment of the farmers of the country, the development of foreign trade, and the American merchant marine, not to speak of the general consumer.

If Portland cement can not be restored to the free list, subject to countervailing duties as herebefore, we urge you at least to support the Blease amendment permitting free entry of Portland cement for public purposes, which will permit us to bring in some cement by a few of our ships, and enable us to carry a balanced cargo.

Very truly yours,

AMERICAN SCANTIC LINE (INC.),
A. V. MOORE, *President.*

## BOULDER DAM CONTRACTS

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the RECORD the opinion of Messrs. Covington, Burling & Rublee, eminent attorneys, respecting the so-called Boulder Dam contracts, which opinion was submitted to Representative LEWIS W. DOUGLAS of Arizona.

This opinion relates to alleged contracts between the United States and the city of Los Angeles and the Southern California Edison Co. regarding leases of generating equipment, and the sale of water for the generation of electrical energy. Second, to contracts between the United States and the Metropolitan Water District regarding the purchase of power. Third, to contracts between the United States and the Metropolitan Water District regarding the purchase of water.

The PRESIDING OFFICER (Mr. FESS in the chair). Is there objection?

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

### OPINION IN REGARD TO BOULDER DAM CONTRACTS

(Dated May 23, 1930. Covington, Burling & Rublee, attorneys for L. W. Douglas, M. C., Arizona. Union Trust Building, Washington)

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Requirements of section 4 (b) of the Boulder Canyon project act.
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2. The instrument of April 26, 1930, Contract for Electrical Energy, is not a valid contract—
(a) The district is not obligated to take and pay for any electrical energy.
(b) An agreement in which the performance of one party thereto is entirely within the will of such party lacks consideration and is not a valid contract.
3. The instrument dated April 24, 1930, Contract for Delivery of Water, is not a valid contract.
(a) The district has assumed no obligation to receive and pay for water.
(b) The United States has assumed no obligation to deliver water.
4. The district can not provide an aqueduct and transmission line without the sanction of a majority of the voters.
Part III—
The instrument, Contract for Lease of Power Privilege, dated April 26, 1930, is not a "provision for revenue by contract" within the meaning of section 4 (b) of the Boulder Canyon project act.
1. The city of Los Angeles, without the assent of two-thirds of the voters has not the legal capacity to incur obligations sought to be imposed upon it by the instrument, nor has it the legal capacity to procure revenues with which to purchase these obligations without the assent of two-thirds of the voters.
(a) Statement of facts relevant to the legal capacity of the city to contract.
(b) The constitution and statutes of California prevent the city from incurring the liability set forth above without the assent of two-thirds of the qualified voters voting at an election to be held for that purpose.
(c) The opinion of the Solicitor of the Department of the Interior that the city of Los Angeles has authority to enter into the instrument under discussion, and that payment of amounts which may be due the United States under that instrument can be enforced by mandamus is, with due deference, in our opinion, incorrect.
2. The instrument, Contract for Lease of Power Privileges does not impose any absolute obligation upon the city or company to take or pay for energy. Any obligations imposed are purely conditions of preserving their allocations. Furthermore, even such conditional obligations are not for any fixed amount of energy.
3. The instrument is not a compliance with the requirements of the Boulder Dam project act, section 4 (b).
Conclusion.

The Hon. LEWIS W. DOUGLAS,
*House of Representatives, Washington, D. C.*

DEAR SIR: You have asked our opinion in regard to the following situation:

Under date of May 1, 1930, the President of the United States transmitted to the Speaker of the House of Representatives a supplemental estimate of appropriation for the Department of the Interior for the fiscal year 1930 to remain available until expended, amounting to $10,660,000. The estimate transmitted was prepared by the Director of the Bureau of the Budget, and states the following:

"The purpose of this estimate is to provide funds for the commencement of construction work on the Boulder Canyon project, authorized by the act of December 21, 1928. The Secretary of the Interior advises that, as required by the act, contracts have been secured which will provide revenue adequate in his judgment to pay operation and maintenance costs, and insure repayment to the United States, within 50 years from the completion of the dam, power plant, and related works, of all amounts to be advanced for the construction of such works, together with the interest thereon made reimbursable by the act."

The contracts referred to by the Secretary of the Interior consists of three documents as follows:

"1. Boulder Canyon Project Contract for Lease of Power Privilege," dated April 26, 1930, executed on behalf of the United States by Ray Lyman Wilbur, Secretary of the Interior, on behalf of the city of Los Angeles, acting by and through the Board of Water and Power Commissioners, by John R. Haynes, President, and on behalf of Southern California Edison Co. (Ltd.), by John B. Miller, president.

"2. Boulder Canyon Project Contract for Delivery of Water," dated April 24, 1930, executed on behalf of the United States by Ray Lyman Wilbur, Secretary of the Interior, and on behalf of the Metropolitan Water District of Southern California by W. P. Whitsett, chairman of the board of directors.

"3. Boulder Canyon Project Contract for Electrical Energy," dated April 26, 1930, executed on behalf of the United States by Ray Lyman Wilbur, Secretary of the Interior and for the Metropolitan Water District of Southern California by W. P. Whitsett, chairman of the board of directors.

The act of December 21, 1928, known as the "Boulder Canyon Project Act" (45 Stat. L. 1057) in section 4(b) provides as follows:

"Before any money is appropriated for the construction of said dam or power plant, or any construction work done or contracted for, the Secretary of the Interior shall make provision for revenues by contract, in accordance with the provisions of this act, adequate in his judgment to insure payment of all expenses of operation and maintenance of said works incurred by the United States and the repayment, within 50 years from the date of the completion of said works, of all amounts advanced to the fund under subdivision (b) of section 2 for such works, together with interest thereon made reimbursable under this act."

You asked for our opinion as to whether the documents referred to above and designated as contracts by the Secretary of the Interior constitute a compliance with the provisions of section 4 (b) of the Boulder Canyon project act referred to above.

OPINION

*Part I*

Section 4 (b) of the Boulder Canyon project act requires that the provisions for revenues by contract which must be made before any money is appropriated for construction of the dam, power plant, or any construction work done or contracted for shall be by valid, enforceable contracts binding upon the parties thereto.

As stated above, the Boulder Canyon project act in section 4 (b) provides that before any money is appropriated for the construction of the dam or power plant or any construction work done or contracted for "the Secretary of the Interior shall make provision for revenues by contract, in accordance with the provisions of this act, adequate in his judgment to insure payment of all expenses of operation and maintenance," and the repayment within 50 years of all amounts advanced to the Colorado River Dam fund.

In our opinion there can be no question that the "provision for revenues by contract" contemplated and required by the act is a provision by legally valid and enforceable contracts. The word "contract" was used in its ordinary meaning to denote binding obligations to pay revenues to the United States, dependent only upon the performance by the United States of the work authorized in section 1 of the act.

As introduced into the House of Representatives and as reported by the Committee on Irrigation and Reclamation the bill (H. R. 5773) in this section provided that the Secretary should "make provision for revenues, by contract or otherwise * * *."

A similar bill (S. 728) introduced simultaneously in the Senate contained the same provision.

On March 20, 1928, the Senate Committee on Irrigation and Reclamation reported S. 728 with an amendment, among others, striking out the words "or otherwise." In its report, made by Senator JOHNSON, the committee said:

"While the Government will in the first instance advance funds for the construction of the works, all advancements will be repaid to the Government within 50 years, and those for purposes other than reclamation with interest at 4 per cent per annum. Moreover, the bill specifies that no money is to be advanced until the Secretary of the Interior has secured contracts for the delivery of water and for power assuring the Government full repayment of its outlays, with interest." (70th Cong., 1st sess., S. Rept. No. 592, p. 7–8.)

On May 23, 1928, in the House of Representatives, Mr. SWING, of California, the author of the House bill, said, after having previously expressed his willingness to strike out the words "or otherwise":

"The pending bill contains a provision which has never been inserted in any legislation heretofore, and provides that before a dollar can be appropriated or before any contracts can be made or any money expended there must be in the hands of the Secretary of the Interior solvent and binding contracts from agencies, public and private, agreeing to take the benefits of the project on terms dictated by the Secretary of the Interior which will guarantee the return to the United States Government of not only every dollar expended but 4 per cent interest as well." (Cong. Rec., Vol. 69, No. 137, p. 9878.)

On May 24, 1928, Mr. SWING accepted and the House adopted an amendment striking out the words "or otherwise". (Cong. Rec., Vol. 69, No. 138, p. 10023.)

Thus the legislative history of the act shows both Houses of Congress considered and rejected language which would have permitted the Secretary of the Interior to have made provisions for revenue otherwise than "by contract." It is plain, then, that Congress had this question presented to its attention in a most precise form and that its action was considered and deliberate. Compare United States v. Pütsch (256 U. S. 547, 551-552).

Before any money is appropriated therefor the Secretary must make provision for revenue by contract—in the language of Mr. SWING, "solvent and binding contracts from agencies, public and private, agreeing to take the benefits of the project on terms * * * which will guarantee the return to the United States * * *"; in the language of Mr. JOHNSON, "contracts for the delivery of water and for power * * * assuring the Government full repayment * * *." These statements are in full accord with the language of Congress and with all the provisions of the act, the whole tenor of which is that all the expenditures of the United States for the dam and power plant are advances to the Colorado River Dam fund which are to be repaid by the revenues from the contract.

In our opinion the act, therefore, requires that the contracts to be entered into impose enforceable obligations upon the contractees to pay the revenues specified to the United States. An option agreement even if given for consideration would not constitute a provision for revenues by contract within the meaning of the act. It, of course, follows from the foregoing that the party contracting with the United States must have full legal capacity to incur the obligations which it purports to incur. As was stated by the Supreme Court of the United States in Davis v. Police Jury of Concordia (9 Howard 280, 287):

"The contract must be tested, as all others are, whether they are national, or private, by the competency of the parties to make it. If that does not exist, nothing can be claimed under it, except such equities as may have arisen to either from the conduct of one or the other of them in the transaction."

Congress clearly understood that certain possible contracting parties—municipal corporations—might be under necessity of obtaining special authority before having the legal capacity to enter into contracts with the United States. In section 5 (c) Congress provided for the preservation of their preferential rights pending their reasonable efforts to obtain the necessary authority to contract. The situation is clearly put in an opinion by the Solicitor of the Department of the Interior in response to questions by Senator JOHNSON (CONGRESSIONAL RECORD, February 4, 1930, p. 2993):

"(15) If Los Angeles and other municipalities, including the metropolitan water district, can not now execute enforceable contracts meeting reasonable financial requirements of the Secretary, what would be the duty of the Secretary under the provisions of the act that an application is not to be denied because of necessity for a bond issue, and providing for reasonable time for passage of such bond issue? Would he be authorized to make contracts with other bidders preserving to the preference claimants the right to contract for part of the power if enforceable contracts are tendered within a designated time?

"Section 5 (c) contains the following proviso:

"'*Provided, however,* That no application of a State or a political subdivision for an allocation of water for power purposes or of electrical energy shall be denied or another application in conflict therewith be granted on the ground that the bond issue of such State or political subdivision, necessary to enable the applicant to utilize such water and appurtenant works and privileges necessary for the generation and distribution of hydroelectric energy or the electrical energy applied for, has not been authorized or marketed, until after a reasonable time, to be determined by the said Secretary, has been given to such applicant to have such bond issue authorized and marketed.'

"This proviso does not relieve either the State or a political subdivision from the necessity for compliance of its application with the public interest nor from adaptability of its plans to the conservation and utilization of the water resources of the region. If these conditions have been met and the State or political subdivision has proved its right to an allocation, whether for power purposes or electrical energy, this proviso protects the State or political subdivision from foreclosure of such right on the ground of nonauthorization of a bond issue or failure to market a bond issue until the expiration of a reasonable time therefor is determined by the Secretary. As to what a reasonable time may be, probably the minimum time now provided by the laws of the State may be looked to. This proviso, however, is not designed to tie the hands of the Secretary pending the authorization and marketing of the bond issue so long as the right of the preference claimants to contract for the power allocated to them is preserved. He can not grant 'any other application in conflict therewith.' As an 'application' is an application for a contract, the prohibition against granting another application is a prohibition against execution of another contract 'in conflict therewith.' But if another applicant offers a contract which preserves in full the right of the preference claimant to contract within a reasonable time, when, as and if the necessary bond issue is authorized or marketed, the two applications are not 'in conflict.' The necessity for flood control makes it to the interest of all parties that the projects be initiated and completed at the earliest possible date. To the furtherance of this end the Secretary is plainly empowered to make the necessary contracts required by section 4 (b) at the earliest possible date. Contracts to that end which specifically reserve to the Secretary the power to make further contracts with the preference claimants for the power which he has allocated to them since they are not 'in conflict therewith,' are within his authority."

The solicitor is entirely clear—and rightly so—that the contracts to provide revenues must be legally binding and enforceable. Such contracts can not be made with a corporation which lacks the legal capacity to make the contract or to provide the funds for carrying out its proposed obligations. The law provides that pending a reasonable time within which these defects may be remedied, the application—which the solicitor correctly says "Is an application for a contract"—shall be held open and not adversely affected. The contract obviously can not be made while the lack of capacity exists, but the party's preferential position shall not for a reasonable time be prejudiced.

We shall proceed, therefore, to an examination of the instruments to determine what obligations, if any, they purport to impose and the capacity of the contracting parties to assume such obligations.

*Part II*

The instruments executed on behalf of the Metropolitan Water District of Southern California are not valid contracts.

1. GENERAL STATEMENT OF FACTS

The district is a municipal corporation organized under the metropolitan water district act of the State of California May 10, 1927, Statutes 1927, page 694, amended, Statutes 1929, page 1613. It is composed of the cities of Anaheim, Beverly Hills, Burbank, Colton, Glendale, Los Angeles, Pasadena, San Bernardino, San Marino, Santa Ana, and Santa Monica. There is at present no aqueduct from the district to the Colorado River. Such an aqueduct would, depending on the route selected, be from 242 miles to 372 miles in length. The shorter routes would reach the Colorado River farther from the proposed dam site than the longer routes, one of which would go to the dam site. There is no power transmission line from the proposed dam site to any point on any of the routes, or to any other place.

We are informed and assume that an aqueduct from the Colorado River to the water district would cost him $200,000,000 to $300,000,000, depending on whether the shortest or the longest route is taken. A power transmission line from the proposed dam to an aqueduct would cost approximately $2,000,000.

No vote has been had, nor, so far as we know, have any steps been taken to take a vote, of the qualified voters of the water district upon the proposition of incurring bonded indebtedness for the purpose of constructing either the aqueduct or the transmission line.

2. THE INSTRUMENT OF APRIL 26, 1930, "CONTRACT FOR ELECTRICAL ENERGY," IS NOT A VALID CONTRACT

In the "explanatory recitals" contained in the instrument, being sections 2 to 5, inclusive, it is stated, among other things, that—

"Whereas the United States proposes to enter into an agreement with the city of Los Angeles and Southern California Edison Co. (Ltd.), severally * * * for the lease and operation and maintenance of a Government-built power plant to be constructed at Boulder Canyon Dam, together with the right to generate electrical energy, a copy of which said proposed lease is attached hereto marked Exhibit A * * * wherein the Secretary has reserved the authority to, and in consideration of the execution thereof is authorized by each of the aforesaid lessees, severally, to contract with the other allottees named in the allocation set forth therein for the furnishing of energy to such allottee at transmission voltage in accordance with the allocation to each allottee, * * *; and

"5. Whereas the district is desirous of entering into a contract with the United States providing for the delivery to the district each year from the Boulder Canyon Reservoir up to but not to exceed 1,050,000 acre-feet of water, and, in connection therewith and incident thereto, the district is desirous also of entering into a contract for the purchase of electrical energy to be generated at the power plant to be leased, as aforesaid, to the city of Los Angeles (hereinafter referred to as the city) and Southern California Edison Co. (Ltd.) (hereinafter referred to as the company) to aid in the transportation of such water supply;

"6. Now, therefore, in consideration of the mutual covenants herein contained, the parties hereto agree as follows, to wit."

If the instrument contains any binding obligation on the part of the United States or its lessee to generate and deliver and on the part of the district to receive and pay for any amount of electrical energy those obligations will be found in article 7 entitled "Allocation of electrical energy" and in articles 11, 12, 13, and 14 entitled, respectively, "Delivery of electrical energy," "Charges to be paid the United States," "Monthly payments and penalties," and "Minimum annual payment."

Article 7, "Allocation of electrical energy," provides so far as here relevant as follows:

"7. The United States will cause to be delivered to the district under and in pursuance of and subject to the provisions of the aforesaid proposed lease, attached hereto as Exhibit A, for a period of 50 years from

the date at which energy is ready for delivery to the city, as announced by the secretary, in accordance with the following allocation, to wit, of firm energy:

"A. To the State of Nevada, for use in Nevada, not exceeding 18 per cent of said total firm energy.

"B. To the State of Arizona, for use in Arizona, not exceeding 18 per cent of said total firm energy.

"C. To the Metropolitan Water District of Southern California, so much energy as may be needed and used for pumping Colorado River water into and in its aqueduct for the use of such district within the following limits:

"1. Not exceeding 36 per cent of said total firm energy; plus."

(NOTE.—The remaining limitations upon the allocation to the district will not be set forth because here irrelevant. It is plain beyond possibility of argument that the remaining provisions in article 7 (c) limit and do not extend the allocation set forth above. In article 7 on page 7 it is provided:)

"The district shall have the right to purchase and use all secondary energy as provided in article 9 and article 14 hereof for the purposes stated in the first paragraph of subdivision (c) of this article. * * *"

And further on on the same page the following appears:

"In the event the district shall fail for any reason to use all or any of the firm energy herein allotted to it for the only purpose for which said firm energy is allotted to it—that is, for pumping water into and in its aqueduct—then no disposition shall be made for such firm energy by the Secretary without first giving to a successor to the district which may undertake to build or maintain a Colorado River aqueduct the opportunity to take said firm energy for the same purpose and under the same terms as those to which the district was obligated."

The remaining allocations of article 7 are not here set forth because not relevant to the question at issue—that is, whether the instrument creates any valid obligations on the part of the United States or of the district.

Article 11, "Delivery of electrical energy," provides for determination of the time at which energy shall be ready for delivery to the district. Subsection (d) provides:

"Upon written notification from the Secretary that generation equipment is ready for operation by it and water is available for generating energy therefrom, each lessee will be required to assume the operation and maintenance of its respective portion of the power plant, and thereafter the district will look to such lessees, severally, and not to the United States for compensation for injury and/or damages of any kind which may in any manner arise out of the operation and maintenance of the portion of such plant leased to it."

Article 12 provides for the rate at which the district shall pay the United States for the use of falling water for generation of energy for the district and for the generation thereof.

Article 13 provides for the monthly payments and the computation thereof, but is based upon the minimum annual payments provided for in article 14.

Article 14, "Minimum annual payment," provides so far as here relevant:

"The total payments made by the district for firm energy available in any year (June 1 to May 31, inclusive), whether any energy is taken by it or not, exclusive of its payments for credit to the generating agency, shall be not less than the number of kilowatt-hours of firm energy which the district is obliged to take and/or pay for during said year, multiplied by $0.00163, or multiplied by the adjusted rate of payment for firm energy in case the said rate is adjusted as provided in article 12 hereof * * *."

One further provision of the contract should be mentioned at this time. It is as follows:

"(19) (a) The city having, in article 25 of Exhibit A hereof, undertaken that it shall operate and maintain at cost, including allowance for necessary overhead expense, the lines required for transmitting all Boulder Canyon power from the power plant to the pumping plants of the district, allocated to and used by the district for pumping water into and in its aqueduct: *Provided*, That in the event it should prove materially to the advantage of the district, at any time during the 50-year period of this lease, the district may operate and maintain such transmission lines itself: *And provided further*, That in the event of disagreement or dispute between the district and the city as to such matter, such disagreement shall be determined as provided in article 22 (a) hereof; the Secretary will, if by such determination energy allocated to and used by the district is to be transmitted by the district instead of the city, cause delivery of energy at transmission voltage to be made accordingly."

a. The district is not obligated to take and pay for any electrical energy

As pointed out above the instrument under consideration in article 7 purports to obligate the United States to cause to be delivered only "so much energy as may be needed and used for pumping Colorado River water into and in its aqueduct for the use of such district." Other provisions of article 7 may reduce the amount of energy to be delivered below the above-mentioned amount, but in no event can the energy exceed that amount. On page 7 of the contract it is specifically stated that the only purpose for which either firm energy or secondary energy is allocated under the agreement is for the purpose of pumping water into and in its aqueduct.

Article 14, "Minimum annual payment" adds nothing to article 7. Article 14 provides merely that the total payments made by the district "shall not be less than the number of kilowatt-hours of firm energy which the district is obligated to take and/or pay for during said year, multiplied" by rates set forth in the article.

Under the terms of the contract the district does not purport to be obligated to pay for any more energy than "may be needed and used for pumping Colorado River water into and in its aqueduct for the use of such district."

The aqueduct is not built. The pumping station is not built. The transmission line necessary to carry energy from any generating plant to any pumping station is not built. Certainly until the aqueduct is built no energy can be needed or used for pumping Colorado River water into it. Until the transmission line is built no energy can be used, whether needed or not, for pumping water into the aqueduct.

The instrument of April 26, 1930, does not purport to obligate the district to build an aqueduct, a pumping station, or a transmission line. No other instrument obligates the district to build them. The district can not procure the funds to build, acquire, or in any way furnish these facilities without the holding of an election at which the proposition is voted for by at least a majority of the qualified voters voting at such election. (See sec. 4 below.)

It is therefore our opinion, for reasons which we shall set forth in greater detail below, that under the instrument the promise of the district, if any, is entirely illusory; the district is free to take no energy whatever. The district may decide not to build an aqueduct and its supplementary facilities. Even if it does build the facilities, after acquiring the necessary authority from the voters, it is not required to pump any water into or in its aqueduct and hence is not required to use any electrical energy for that purpose.

b. An agreement in which the performance of one party thereto is entirely within the will of such party lacks consideration and is not a valid contract

A bilateral contract must have consideration, or as it is sometimes expressed, mutuality of obligation. One party can not be bound while the other remains entirely free. An agreement by one party to sell power at a specified rate and by another to take the power or not as such party might subsequently decide does not constitute a contract. Similarly the obligations sought to be created must be subject to some reasonably definite ascertainment, they can not be left wholly to the will of a party or there will be no contract. An agreement to sell as much power as the buyer desires to take is not a contract.

The law has been well stated by Judge Sanborn, of the Circuit Court of Appeals for the Eighth Circuit, in Cold Blast Transportation Co. *v.* Kansas City Bolt & Nut Co., 114 Fed. 77:

"This supposed contract consisted of a written offer to deliver manufactured articles in unnamed quantities at certain specific prices at any time between October 27, 1898, and June 1, 1899, and the acceptance of that offer, without more. * * * Neither the letter nor the acceptance names any quantity or amount of the articles specified that is to be delivered or received under it. The plaintiff does not agree to deliver nor does the defendant contract to receive or pay for any quantity or amount whatever of the articles named in the writings. A promise is a good consideration for a promise. But no promise constitutes such a consideration which is not obligatory upon the party promising. It must bind the promisor, so that the promisee may maintain an action for its breach, or it is without legal effect and void. A promise to furnish, deliver, or receive specified articles at certain prices, without any agreement to order or to accept any amounts or quantities of the articles, is without binding force or effect, because neither party is thereby bound to deliver or to accept any quantity or amount whatever. Such promises are void, because they lack one of the essential elements of an agreement—certainty in the thing to be done. Contracts for the future supply during a limited time of articles which shall be required or needed or consumed by an established business, or used in the operation of certain steamships or other machinery, are no exceptions to this principle, because they fall under the rule, id certum est quod certum reddi potest. But an accepted promise to furnish goods, merchandise, or other property, at certain prices, during a limited time, in such quantities as the acceptor shall require or want in his business, is without consideration and void because the acceptor is not bound thereby to require or take any articles whatever under the supposed agreement. The line of demarcation between valid and invalid contracts here runs between the requirements of machinery, or of an established business, and the wants, desires, or requirements of the tentative vendee; and that because the former are either reasonably certain, or may be made so by evidence, while the latter are conditioned by the will of the tentative vendee alone, and are both uncertain and capable of infinite variation."

In Willard Co. *v.* United States (262 U. S. 489), the Navy Department contracted for "any quantity of coal specified which may be needed * * * the Government not being obligated to order any specific quantity." The court held that the contract was invalid, saying:

"There is nothing in the writing which required the Government to take or limit its demand to any ascertainable quantity. It must be held that for lack of consideration or mutuality the contract was unenforceable."

A contract very similar to the one in question was under consideration in Northern Iowa Gas & Electric Co. *v.* Luverne (257 Fed. 818). An electric company contracted to supply a town with "all electricity and current that shall be desired by the town or its patrons along its transmission line * * * for lighting purposes or for power purposes or for other lawful use." The court, quoting the Cold Blast Transportation Co. case, supra, held that the contract was void for lack of mutuality, saying:

"As the defendant under the contract in question never assumed any obligation on its part nor agreed to purchase any definite amount of electricty for lighting or other purposes, the contract between the plaintiff and defendant is lacking in mutuality and therefore void."

Later decisions in this case are reported in 262 Fed. 711, 712; 282 Fed. 432.

In Schimmel *v.* Martin (190 Cal. 429, 431) the parties contracted "* * * to let O. K. Uzzell have this water continuously at 1½ cents per inch, to be applied on the 20 acres of land owned by O. K. Uzzell, and which adjoins the ranch of A. J. Martin; and O. K. Uzzell is to pay monthly for the water he uses. In case O. K. Uzzell fails to pay for the use of water, the party of the first part has the privilege of cutting off the supply, but in case party of the second part fails to pay but does pay later, he shall then have the water supplied to him as in the beginning on the same terms, by paying up all bills for the use of water * * *."

The court held:

"The contract is lacking in mutuality. Considered as a contract for the sale of personal property, as the parties to the action treated and considered it, and as the trial court in effect found it to be, there is clearly no mutuality in the absence of an agreement by the plaintiffs to buy the water offered for sale by the contract."

See also Long Syrup Refining Co. *v.* Corn Products Refining Co. (193 Fed. 939).

It has been observed that no aqueduct has been built, that no power plant has been built, and that there are no assurances from any contract that either will be built. The rule that a contract to supply all the needs of an established business for a limited period of time does not lack mutuality is not applicable in such a situation. This was well stated in American Trading Co. *v.* National Fiber & Insulation Co. (1 W. W. Harr. (Del.) 65; 111 Atl. 290), in which a contract to supply the buyer's needs was in question. The court said:

"From an examination of cases bearing upon the point, it may be stated that when the engagement of the buyer is merely to receive the goods he may want or order, or when his business is not established, and there is no reasonable probability that the business will continue, or will require any substantial quantity of the goods covered by the agreement, the law holds that the engagement of the buyer is not an obligation but an option to take or not take any goods only as he may desire, and the contract is void for want of mutuality or certainty.

"As the validity of the agreement, such as in this case, depends on the probable permanence or nature of purchaser's business, and the ability and opportunity of the seller to make a reasonably correct estimate of the quantity of goods bargained for, the declaration in the present case can not stand for there is nothing in the present declaration to even indicate the existence of such necessary facts."

See also the later appeal of this case in 1 W. W. Harr. 258; 114 Atl. 67.

The law is similarly stated in T. W. Jenkins & Co. *v.* Anaheim Sugar Co. (237 Fed. 278), a case in the District Court of the Southern District of California:

"After very careful consideration of the particular circumstances of the case, upon reason as well as upon authority, I am constrained to accept defendant's contention. The books are full of cases, and the most important of them have been cited herein by plaintiff, to the effect that a contract binding one party to sell and the other party to buy all of the 'requirements' of the latter's established business as to a given commodity, will be enforced, and this because of the fact that the ascertainment of such requirements is possible with sufficient definiteness and certainty; the subject matter of the contract being thus rendered certain, in the face of the positive reciprocal obligations complete mutuality is secured, and a breach by either party can be the basis of relief to him who tenders or has given full performance. As a necessary element of this wholesome conclusion, however, the courts have been forced to indulge in the presumption that the parties intended that the established business of the purchaser was to be carried on, substantially as of the time of contract, and that the purchase and use therein of the community forming the subject matter of the contract would be but an incidental feature of the carrying on of such established business."

See also Nassau Supply Co. *v.* Ice Service Co., 252 N. Y. 277; 169 N. E. 283.

The instrument under consideration does not provide for the taking of the power requirements of established facilities. It provides for the payment by the district for power "needed and used" in a purely speculative pumping station on a purely speculative aqueduct. It needs no further statement to indicate that such an agreement does not constitute a contract, because, to use Judge Sanborn's language, "it is conditioned by the will of the vendee alone and both uncertain and capable of infinite variation."

3. THE INSTRUMENT DATED APRIL 24, 1930, "CONTRACT FOR DELIVERY OF WATER," IS NOT A VALID CONTRACT

This document is entitled "Contract for Delivery of Water." It is plainly not even that, much less is it a contract for the purchase of water.

The document is executed by the United States and the water district. It recites that in consideration of mutual promises it is agreed—

"6. The United States shall deliver to the district each year from the Boulder Canyon Reservoir at a point in the Colorado River immediately below Boulder Canyon Dam, or as provided in article 10 hereof, up to but not to exceed 1,050,000 acre-feet of water, which shall be delivered continuously as far as reasonable diligence will permit. * * *"

(The qualifications upon this undertaking of the United States which follow the quoted provision will be discussed later.)

"This contract is for permanent service, but is made subject to the express covenant and condition that in the event water for the district is not taken or diverted by the district hereunder for district purposes within a period of 10 years from and after completion of Boulder Canyon Dam, as announced by the Secretary, it may in such event, upon the written order of the Secretary and after hearing, become null and void and of no effect.

"7. The district shall receive the water to be delivered to it by the United States under the terms hereof at the point of delivery above stated and shall at its own expense convey such water to its proposed aqueduct, * * *.

"8. The water to be delivered hereunder shall be measured at the intake of the district's proposed aqueduct * * *.

"9. The district shall make full and complete written monthly reports * * * of all water diverted from the Colorado River, * * *.

"10. A charge of 25 cents per acre-foot shall be made for water delivered to the district hereunder during the Boulder Dam cost repayment period. * * *

"11. The district shall pay monthly for all water delivered to it hereunder, or diverted by it from the Colorado River, in accordance with the rate herein in article 10 established. * * *"

The instrument contains no provisions stating when the deliveries shall begin.

a. The district has assumed no obligation to receive and pay for water

Article 6 (except as will be hereafter qualified) provides for the delivery of "up to but not to exceed" a stated quantity. By article 7, the water "to be delivered * * * under the terms hereof" is to be received by the district at the point of delivery and conveyed to a proposed aqueduct, which is not built and may never be built. The only provisions for payment are for water actually delivered. There is no provision fixing the beginning of deliveries. There is a provision providing for cancellation of the contract if no water has been taken within 10 years after the completion of Boulder Canyon Dam.

This is obviously not a contract. The district is not bound to receive or pay for any quantity of water at all. The document contains a mere unenforceable promise by the United States that if the district builds an aqueduct it may have the privilege of diverting (subject to drastic qualifications) up to but not to exceed a stated quantity of water. It is free to take no water or only so much as it wills to take. The district promises to do nothing except pay for the water which it takes, if and when it takes any.

Even if an aqueduct should be built, the document still lacks any promise to take any quantity of water which is capable of ascertainment. The law will not supply provisions which the parties have omitted.

In the Cold Blast Transportation Co. case, supra, the court said:

"It is said that the intention of the parties was to make an agreement that the plaintiff should sell and deliver, and the defendant should buy, all the articles of the character specified in the offer which should be needed or required by its business between October 27, 1898, and June 1, 1899; that the purpose of the construction and interpretation of contracts is to ascertain the intention of the parties; and that this contract should be interpreted to effect this intent. The answer is that, while ambiguous terms and doubtful stipulations may be interpreted to carry out the intention of the parties when they fairly evidence it, their secret intention can not be imported into contracts whose terms and meaning are plain and unambiguous, and do not express it. It is only the intention of the parties which the contract itself expresses that the courts may enforce. In the case at bar the offer of the plaintiff is nothing but a price list. The acceptance of the defendant contains no agreement to buy any of the articles specified in the list, and there is no ambiguity in the terms, or doubt in the meaning, of the writings in issue. To give effect to the intention of the parties which the defendant now alleges would be to ascribe to them a purpose, and to make and enforce for them a contract, which their

writings neither express nor suggest; and this is beyond the province of the courts * * *."

In Hoffmann v. Maffioli, 104 Wis. 630; 47 L. R. A. 427, the parties contracted for stone to be "delivered on street in the city of Waukesha in such quantities as may be desired." The buyer had a contract for paving the streets of Waukesha, and it was contended that the effect of the contract for stone was to supply all the buyer's needs in filling his contract for paving. The court held the contract to be lacking in mutuality and void, saying:

"The contract leaves the amount of stone to be delivered unfixed and unascertainable. There is nothing in the contract which implies that it was measured with or limited to the defendant's contract with the city."

We have, in connection with the instrument dated April 26, 1930, Contract for Electrical Energy, set forth the law applicable to purported agreements of the sort here under discussion. Like the preceding agreement this one is conditioned solely by the will of the tentative vendee alone and is both uncertain and capable of infinite variation. Upon the authorities above referred to it is plain that this is not a contract.

b. The United States has assumed no obligation to deliver water

We have referred several times above to the drastic qualifications attached in article 6 of the contract to any obligation of the United States to deliver water to the district. These qualifications are as follows:

"The United States shall not be obligated to deliver water to the district when for any reason such delivery would interfere with the use of Boulder Canyon Dam and Reservoir for river regulation, improvement of navigation, flood control, and/or satisfaction of present perfected rights, in or to the waters of the Colorado River, or its tributaries, in pursuance of Article VIII of the Colorado River compact, and this contract is made upon the express condition and with the express covenant that the right of the district to waters of the Colorado River, or its tributaries, is subject to and controlled by the Colorado River compact. The United States reserves the right to discontinue or temporarily reduce the amount of water to be delivered for the purpose of investigation, inspection, maintenance, repairs, replacement, or installation of equipment and/or machinery at Boulder Canyon Dam, but so far as feasible the United States will give the district reasonable notice in advance of such temporary discontinuance or reduction. The United States, its officers, agents, and employees shall not be liable for damages when, for any reason whatsoever, suspensions or reductions in delivery of water occur."

Under the qualifications set forth above, the United States, its officers, agents, and employees are not liable for damages when "for any reason whatsoever" suspensions or reductions in delivery of water occur. In other words, even if with all the qualifications preceding the provision just quoted there remains any remote obligation upon the United States to deliver water, nevertheless, the United States is not to be liable for damages when for any reason whatsoever it suspends or reduces the deliveries of water.

It is a well-recognized principle of the law that an agreement which by its terms exempts one party thereto from any liability thereunder can not be a contract. We are aware that the United States can enter into a valid contract even though Congress should not have provided any tribunal in which redress could be obtained for a violation of the contract by the United States. This principle, however, is not involved in the present case. Under the present contract the difficulty is not that a tribunal capable of giving redress does not exist, but that the very document which undertakes to create an obligation by its own terms expressly exempts the United States from any liability growing out of the failure to perform that obligation.

This principle was recognized in Howester King Co. v. Mitchell, Lewis & Stover Co. (89 Fed. 173), where the court said:

"I am of the opinion that there is no mutuality in the contract sued on. The stipulation against liability on plaintiff's part for damages for its failure from any cause to comply with the contract in effect releases the plaintiff from any obligation to perform its agreements. Where there is no liability, there is no obligation; and, without an obligation to perform on the part of one of the parties, neither is bound."

For this reason, also, the instrument of April 24, 1930, entitled "Contract for Delivery of Water," is void and does not create any binding obligations upon either the United States or the district.

4. THE DISTRICT CAN NOT PROVIDE AN AQUEDUCT AND TRANSMISSION LINE WITHOUT THE SANCTION OF A MAJORITY OF THE VOTERS

As already stated, the cost of the aqueduct and transmission line thereto have been estimated at from $200,000,000 to over $250,000,000. Estimates by the district's engineers have run as high as $300,000,000.

No one has suggested, or could suggest, that these facilities could be furnished by the district out of any current revenues which it could raise. The maximum taxes which it can levy "exclusive of any tax levied to meet the bonded indebtedness of such district and the interest thereon shall not exceed 5 cents on each such $100 of assessed valuation." (Statute of California, 1927, ch. 429, sec. 5 (8).) We are informed that the total assessed valuation of property within the district is $2,311,001,115. The maximum revenue other than to meet bonded indebtedness and interest would not exceed $1,155,500 per annum.

The facilities, then, would have to be financed by a bond issue.

The law creating the district provides that whenever the directors of the district determine that the public interest requires the creation of public works "the cost of which will be too great to be paid out of the ordinary annual income and revenue of the district, said board of directors may order the submission of the proposition of incurring bonded indebtedness for the purposes set forth in the said ordinance to the qualified voters." If "a majority of the electors voting * * * voted in favor of such proposition, the district shall thereupon be authorized to issue and sell bonds of the district in the amount and for the purposes * * * provided * * * in such ordinance." (Statutes, 1927, ch. 429, sec. 7 (a) and (d).)

This statute is plain that the district can not incur any bonded indebtedness for such public works as the aqueduct and its power-transmission line without the sanction of a majority of the voters voting upon that proposition at an election called for that purpose. It is highly probable that under the statute any attempt on the part of the directors of the district to commit the district without an election to the creation of works which could only be financed by bonded indebtedness authorized by an election would be wholly void. But this opinion need not be extended by a discussion of that proposition. From what has gone before, it is clear that the directors have not done anything so foolish. It is also clear from the Boulder Canyon Project Act (see pp. 7 to 9, supra) that even if they had done so their purported contract would not be that adequate provision for revenues by contract which must be made before money may be appropriated for the project. For Congress, by expressly providing that applications for contracts shall not be denied or prejudiced until a reasonable time for providing for bond issues has been given, has shown its appreciation that an agreement made without such provision would have no binding and enforceable effect whatever.

To require that a party proposing to contract shall obtain the necessary capacity and authority to incur the indebtedness necessary to perform any contract is merely to require the first essential of making a valid contract which will provide revenue. It is as important to the representatives of the applicant as it is to the United States. It imposes no hardship on anyone. It may prevent disastrous consequences to both.

It is our opinion that no contract can be made with the district by which it is obligated to take and pay for water and for energy which will meet the requirements of the Boulder Canyon Project Act until the district has obtained from the voters the authority to incur bonded indebtedness in the amount necessary to provide the works and facilities without which it can take neither water nor energy.

*Part III*

The instrument, Contract for Lease of Power Privilege, dated April 26, 1930, is not a provision for revenue by contract within the meaning of section 4 (b) of the Boulder Canyon project act.

We shall approach the consideration of the instrument dated April 26, 1930, from the following points of view:

1. We shall consider whether the city of Los Angeles, without the assent of two-thirds of the voters, has the legal capacity to incur certain obligations sought to be imposed upon it by the instrument.

2. We shall consider whether the United States can force the city of Los Angeles by mandamus or otherwise to pay amounts alleged to be due under the instrument, as stated by the Solicitor of the Department of the Interior, in his opinion.

3. We shall consider whether the instrument purports to impose upon the city and the Southern California Edison Co. any unqualified obligation to take and pay for electrical energy.

1. THE CITY OF LOS ANGELES, WITHOUT THE ASSENT OF TWO-THIRDS OF THE VOTERS, HAS NOT THE LEGAL CAPACITY TO INCUR OBLIGATIONS SOUGHT TO BE IMPOSED UPON IT BY THE INSTRUMENT, NOR HAS IT THE LEGAL CAPACITY TO PROCURE REVENUES WITH WHICH TO FURNISH THOSE OBLIGATIONS WITHOUT THE ASSENT OF TWO-THIRDS OF THE VOTERS

(a) Statement of facts relevant to the legal capacity of the city to contract

By ordinance No. 66446, adopted by the council of the city of Los Angeles on April 23, 1930, the council resolved to give the board of water and power commissioners authority to execute the instrument under consideration, for and on behalf of and in the name of the city of Los Angeles. In our opinion this resolution was effective under the charter of the city, article 6, section 78, and article 28, section 385, to give to the board whatever authority the council possessed to execute this document on behalf of and in the name of the city.

The instrument of April 26, 1930, deals with three principal matters.

1. The making of a lease in the future by the United States to the city and the company, severally, of power-generating machinery.

2. The operation of that machinery by the city for the purpose of generating power for other municipalities and the transmission of that power by the city to those municipalities over its own transmission line not yet constructed.

3. The generation of power by the city and the company for their own uses, respectively.

Article 6 of the instrument provides that the United States will furnish and install generating equipment. At the present time the machinery has not been installed, nor has any work been undertaken upon any of the projects. Section 10 provides for a lease of machinery to the city and to the company. This is, of course, an agreement for a lease to be made in the future and can not be the present lease. Article 9 provides that the lessees shall pay the cost of the machinery installed for them, with interest at 4 per cent, in 10 equal installments. The first installment is to be payable on the June 1 next following the date when the machinery is ready for operation and water is available therefor, as announced by the Secretary. The subsequent nine installments are payable on each June 1 thereafter following. The amount of machinery to be installed is left vague by article 8 of the instrument and this matter will be hereinbelow referred to. The Secretary, however, has stated that the machinery which he proposes to install under this instrument for the city and for which the city must pay will cost approximately $17,000,000.

By article 10 (d) the city is made the generating agency for, among others, certain other municipalities.

By article 14 the city covenants generally to furnish energy needed to meet allocations of energy to, among others, the municipalities.

By article 25 (b) the city agrees to transmit over its main transmission line, constructed for carrying Boulder Canyon power, all such power allocated to and used by each of the municipalities severally. The cost of this transmission line has been estimated by the Secretary to be $30,000,000.

By article 20 it is provided that in case of the breach by a lessee of the terms and conditions of this agreement to the extent that another allottee is deprived of all or any part of the electrical energy to which it is entitled under the allocation set forth in article 14, the generation of which is to be effected by the lessee, the Secretary reserves the right to enter and operate the machinery at the cost of the lessee and thereafter, upon two years' written notice, to terminate the contract.

b. The constitution and statutes of California prevent the city from incurring the liability set forth above without the assent of two-thirds of the qualified voters voting at an election to be held for that purpose

Section 18 of article 11 of the Constitution of California provides that:

"No * * * city * * * shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed 40 years from the time of contracting the same * * * any indebtedness or liability incurred contrary to this provision * * * shall be void."

By article 1, section 3, clause 4, of the charter of the city of Los Angeles the provisions of the bond act of 1901 (Stat. 1901, p. 27; Stat. 1927, p. 527) are made applicable to the city. Willmon v. Powell (91 Calif. App. 1; 266 Pac. 1029).

The bond act of 1901 provides, in section 2, that whenever the legislative branch of any city shall determine that the public interest requires the carrying out of any project the cost of which will be too great to be paid out of the ordinary annual income and revenue of the municipality it may call a special election and submit to the qualified voters of the city the proposition of incurring a debt for the purpose set forth in the resolution. In section 3 it is provided that it shall require the votes of two-thirds of all the voters voting on any such proposition to authorize the issuance of bonds provided by the act.

California Jurisprudence, volume 18, page 880, referring to the constitutional provision set forth above, says:

"The provision means not only that an indebtedness incurred contrary to its express inhibition is absolutely void but that each year's income and revenue must pay each year's indebtedness and liability, and that no indebtedness or liability incurred in any one year shall be paid out of the income and revenue of any future year."

See also San Francisco Gas Co. v. Brickwedal, 62 Calif. 641; Chester v. Carmichael, 187 Calif. 267; San Joaquin Light & Power Co. v. Madera, 175 Calif. 229; Arthur v. City of Petaluma, 175 Calif. 216. For other cases so holding see 18 Calif. Jur. section 177, note 20.

The question of when and the extent to which a liability is incurred under the constitutional provision has been frequently before the Supreme Court of California in connection with cases involving payments to be made in installments. The earlier decisions in which this question arose were cases involving the furnishing of services or materials in yearly installments and the payments therefor in yearly installments. In these cases the court held that a liability for an installment was not incurred until the consideration for that installment had been furnished and that therefore the liability could be incurred provided there were adequate revenues to meet each installment as it fell due. McBean v. City of Fresno, 112 Calif. 159; 44 Pac. 359; Smilie v. Fresno, 112 Calif. 311; 44 Pac. 556; Doland v. Clark, 143 Calif 176; 76 Pac. 958.

In the more recent cases decided by the Supreme Court of California, however, the consideration to be furnished by the contracting party was not to be furnished in installments but was furnished at one time. The payments, however, were by the purported contract spread over a period of years. In these cases the Supreme Court of California held that the liability was incurred when the consideration was furnished and that the liability could not under the Constitution be incurred unless the revenues of the city were adequate in the year when the consideration was furnished to meet the entire installments, no matter over what future period the payment of these installments was spread. In re City and County of San Francisco, 195 Calif. 426; 223 Pac. 965; Mahoney v. San Francisco, 201 Calif. 248; 257 Pac. 47; Chester v. Carmichael, 187 Calif. 287; 201 Pac. 925.

In the cases of Chester v. Carmichael and Mahoney v. San Francisco, supra, the Supreme Court of California reviewed the earlier cases and limited them strictly to the type of contract involved in those cases.

In the Mahoney case the court said:

"We do not understand that the force and effect of the constitutional restrictions may be avoided—however beneficial such an avoidance may appear to be to the municipality by permitting it to carry forward its plans—that expenditures may be incurred for improvements and for other public uses for which the municipality is liable and which, though not definitely fixed or even estimated, will inevitably exceed the income and revenue provided for the fiscal year in which the contract is entered into, or any future year, because, perchance, the question of the ability of the municipality to meet its obligations is left in a state of doubt or uncertainty occasioned by the phraseology of the contract, or upon the theory that the possible occurrence of an event which in all probability will not happen may happen, or the possible failure of a condition which must from the logic of the situation be performed will not be performed. If this be the rule of construction, the restriction provisions of the Constitution and charter would become practically nullities and there would be no opportunity for the taxpayers to be heard as to the incurring of indebtedness or liability that would become a charge upon the future income or revenue of municipal and public corporations. It would practically put an end to bond issues as provided by the Constitution with respect to the incurring of future indebtedness or liability. If a vast indebtedness or liability may be incurred by contract whereby the payment is postponed to a future year, and which would beyond question exceed the income that could or would reasonably be expected to be provided for, a condition would be brought about similar to that stated in Arthur v. City of Petaluma (175 Cal. 216; 165 Pac. 698), which affords a striking example of the hardship that follows a failure to observe the organic law and which should be avoided in the interests of a sound public policy."

Under the foregoing decisions of the Supreme Court of California, it is clear that the obligation of the city to pay the cost of the generating facilities to be furnished by the United States in the present case would become a liability when the consideration moving from the United States is furnished; that is, when the dam and power facilities are built and the water to operate the latter made available. It would be immaterial that this liability could be paid over a period of years. That affects merely the method of payment. As to that liability, there would be no further consideration to be furnished by the United States.

Payments for the use of falling water would perhaps fall in a different category. These payments are for services to be furnished by the United States from year to year, and presumably no liability to be incurred until the consideration had been given therefor. We shall, however, discuss in the following subdivision of this part the effect of the constitutional provision upon the ability of the United States to enforce payments for these services.

The decisions of the Supreme Court of California are also clear that under the present instrument the obligation of the city to furnish a power transmission line would be a liability incurred in a single year within the meaning of the constitutional revision, and this would be true irrespective of any future contracts which the city might enter into to spread the payments for this power line over a period of years. Furthermore, it is immaterial whether or not there is in the contract a direct promise from the city to the United States to furnish the power line. It is enough if either there is an implied promise (18 Cal. Jur. 880, 881) or if the furnishing of the line by the city is necessary for it to preserve rights acquired by it by the contract, and if the failure to furnish the line enables the United States to terminate the contract and forfeit the lease. Chester v. Carmichael (187 Cal. 287 at 293, and In re City and County of San Francisco, 195 Cal. 426, 439, 442.)

We make no attempt to estimate for the present or any future year the revenue and income of the city of Los Angeles which is or may be free for expenditure upon this project, because it will be apparent and conceded that there can be no reasonable expectation that in any year there will be revenues unappropriated sufficient to permit, under the constitution, the incurring of a liability of $17,000,000, the estimated cost of the facilities, and $30,000,000, the estimated cost of the transmission line, or of either liability. If any support for this statement is needed it may be found in the fact that in two recent

instances in which the city wished to incur liabilities for approximately $11,000,000 and $38,800,000, respectively, for public works, the propositions were submitted to the voters.

The bald fact, therefore, is that the city, without the assent of the voters, is purporting to commit the city to two future liabilities of $17,000,000 and $30,000,000, respectively. These amounts, as the court said in the Mahoney case, "will inevitably exceed the income and revenue provided for the fiscal year in which the contract is entered into, or any future year." As the court said further, the constitutional limitation which makes such an attempt a nullity can not be avoided "because perchance, the question of the ability of the municipality to meet its obligations is left in a state of doubt or uncertainty occasioned by the phraseology of the contract." If such a contract as this could be validly made "it would practically put an end to bond issues as provided by the constitution with respect to the incurring of future indebtedness or liability."

The purpose of the constitutional provision is to give an opportunity to the voters to pass upon the incurring of indebtedness or liabilities which may become charges upon the future income or revenue of municipal corporations. If a liability incurred, no matter when payable, can be discharged from the income or revenues of the year in which it is incurred that liability may, under the constitution, be incurred by the city without reference to the voters. If, however, the liability is too great to be paid out of the income and revenue of the year in which it is incurred and therefore must become a charge upon future revenues, the constitution provides that the proposition of incurring the liability must be submitted to the voters and assented to by two-thirds of those voting upon it.

That this is the acknowledged law of California is strongly indicated by the purchase agreement dated May 26, 1919, entered into between the Southern California Edison Co. and the city of Los Angeles and set forth in hearings before the House Committee on Irrigation and Reclamation, Sixty-eighth Congress, first session, in H. R. 2903, Part I, 442. That contract provided for the purchase by the city from the company of the company's electric distributing system situated within the corporate limits of the city for a price of $11,000,000, together with such sum as shall be equivalent to the amount of money necessarily expended by the company on extensions and betterments after June 30, 1919. Article 4 of that contract provides as follows:

"The sums mentioned in paragraph 1 hereof to be paid by the city to the company or any part thereof shall be payable and said properties shall be transferred and conveyed as aforesaid only in the event that on or before June 30, 1920, an issue of bonds of said, the city of Los Angeles, authorized by the voters of said city, for the purpose of acquiring the above-described properties or for that and other purposes shall be issued and sold and said sum shall be paid only out of the proceeds of the sale of said bonds."

On Tuesday, May 20, 1930, the voters of Los Angeles had submitted to them the following proposition:

"Shall the city of Los Angeles incur a bonded debt in the sum of $38,800,000 for the acquisition, construction, and completion by the city of Los Angeles of a certain revenue producing municipal improvement, to wit, the acquisition, construction, and completion of waterworks, including lands, water, water rights, reservoir dams, distributing mains, and other necessary works and property for supplying the city of Los Angeles and its inhabitants with water, the estimated cost of which is $38,800,000."

In our opinion, the city of Los Angeles has no power to incur a liability to pay the United States a total consideration of $17,000,000, in 10 installments, on account of the cost of furnishing facilities that shall be leased to the city by the United States or to incur a liability to furnish a transmission line the cost of which may equal or exceed $30,000,000, without submitting such proposition to the qualified voters of the city and obtaining the assent of two-thirds of said voters voting thereon to incur such liability and to issue bonded indebtedness in the amount thereof. The instrument under consideration which purports to commit the city to the incurring of such liabilities is in our opinion null and void.

c. The opinion of the Solicitor of the Department of the Interior that the city of Los Angeles has authority to enter into the instrument under discussion and that payments of amounts which may be due the United States under that instrument can be enforced by mandamus is, with due deference, in our opinion incorrect

We have had the opportunity of examining an opinion given by the Solicitor of the Department of the Interior under date of May 6, 1930. The solicitor apparently concludes on the first page of that opinion that the city of Los Angeles has authority under its charter to incur the obligations provided for in this instrument. The solicitor, however, fails to consider the limitations imposed by the constitution of California on the capacity of a municipality to incur obligations. These limitations have been discussed fully. They are in our opinion conclusive against the capacity of the city to incur the obligations referred to above, sought to be imposed by the instrument. The case of Gillette Herzog Manufacturing Co. *v.* Canyon County (85 Fed. 396), cited with approval by the solicitor on page 7 of his opinion, is conclusive authority in favor of the views expressed by us above and states that a municipality limited by a constitution almost identical with the constitution of California had no authority to enter into the contract in question and that even though the other contracting party had furnished the entire consideration required of it—in that case, the building of a bridge—the party was entirely without redress of any sort against the city.

But for another reason the opinion of the solicitor that the United States might by mandamus force the city to make payments to it is in our opinion incorrect, and this reason is applicable not only to prevent enforcement of any payments to the United States on account of the cost of installing generating equipment but is also applicable to payments which the United States may seek to recover on account of the use of falling water for generating purposes.

It is the law of California that except where resources have been provided by a bond issue assented to by two-thirds of the voters of a municipality no liability or indebtedness of the municipality can be paid either voluntarily or as the result of judicial process except from the revenue of the year in which the liability was incurred. This is clearly stated in the case of Arthur *v.* City of Petaluma (175 Calif. 216). In that case the facts were as follows:

Arthur did some printing for the city in the fiscal year 1910–11. When the liability was incurred there was sufficient money in the city treasury of the revenue of that fiscal year to pay it. He filed a claim for payment on March 28, 1911, but at that time the revenues provided for the fiscal year had been entirely exhausted and his claim was therefore disallowed. He then sued the city and obtained a judgment. The county clerk certified the judgment to the auditor in accordance with the law providing for the payment of judgments. The city counsel included in the tax levy for 1916–17 a sum expressly devoted to payment of the judgment and sufficient to pay the same. The tax was collected and in the treasury but the city refused to pay the claim on the ground that section 18 of Article XI of the constitution of California precluded payment of a liability incurred in any year from revenue received in another year.

Arthur then brought a proceeding in mandate to compel allowance and payment of his claim. The defense of the city was sustained by the court. The court said:

"The fact that petitioner has obtained judgment against the city for the amount of his claim in an action brought for that purpose does not avoid the application of this constitutional provision. The judgment, of course, conclusively determines the question of the validity of his claim, but it still remains that, by reason of that provision, it can not be paid out of the revenues of a fiscal year other than the one in which the liability or indebtedness was created."

This case is the unquestioned law of the State of California. See 18 Cal. Jur. page 887, section 182; see also Dillon on Municipal Corporations, fifth edition volume 1, page 410.

Thus the limitation imposed upon the municipalities by the constitution of California is twofold. In the absence of the assent of two-thirds of the voters—

(a) The city can not create an obligation in excess of revenues provided and not appropriated for the year in which the liability is or is to be incurred. Any liability sought to be incurred in excess of such revenues is void; and

(b) Even if adequate revenues exist at the time the liability is incurred, if those revenues are subsequently used for other purposes the creditor is entirely without legal remedy since under the constitution of the State the courts of California have held that an indebtedness can only be discharged out of the revenues provided in the years in which it was incurred and that it can not be discharged either voluntarily or to pay a judgment out of the revenues of any other year. This has been held in a case in which it was sought to direct the payment by mandamus, the remedy relied upon by the solicitor in his opinion.

2. THE INSTRUMENT "CONTRACT FOR LEASE OF POWER PRIVILEGE" DOES NOT IMPOSE ANY ABSOLUTE OBLIGATION UPON THE CITY OR COMPANY TO TAKE OR PAY FOR ENERGY. ANY OBLIGATIONS IMPOSED ARE PURELY CONDITIONS OF PRESERVING THEIR ALLOCATIONS. FURTHERMORE, EVEN SUCH CONDITIONAL OBLIGATIONS ARE NOT FOR ANY FIXED AMOUNT OF ENERGY

Article 16 of the instrument provides:

"In consideration of this lease the lessees severally agree:

"1. To pay the United States for the use of falling water for the generation of energy for their own use, respectively, by equipment leased hereunder (except as otherwise provided in art. 17 hereof), as follows:

"(a) $0.00163 per kilowatt-hour for firm energy;

"(b) $0.0005 per kilowatt-hour for secondary energy."

Article 17 provides:

"The total payments made by each lessee for firm energy available in any year (June 1 to May 31, inclusive), whether any energy is generated or not, exclusive of its payments for use of machinery, shall be not less than the number of kilowatt-hours of firm energy available to said lessee and which said lessee is obligated to take and/or pay for during said year multiplied by $0.00163. * * * *Provided, however,* That in order to afford a reasonable time for the respective lessees to

absorb the energy contracted for the minimum annual payments by each for the first three years after energy is ready for delivery to such lessees, respectively, as announced by the Secretary shall be as follows, in percentages of ultimate annual obligation, to take and/or pay for firm energy:

First year, 55 per cent.

Second year, 70 per cent.

Third year, 85 per cent.

Fourth year and all subsequent years, 100 per cent.

Thus, to determine the payments, if any, which the lessees agree to make, we must find in the contract provisions showing:

1. The number of kilowatt-hours which are to be available,

and also

2. The number of kilowatt-hours available to each lessee which said lessee is obligated to take or pay for.

The kilowatt-hours available will depend upon the generating machinery installed (article 8) and the falling water made available (article 21). Article 8 provides that the lessee shall notify the Secretary of their respective generating requirements in order that the United States may be able to determine the type and initial and maximum ultimate generating capacity of the generating equipment to be installed in the power plant. Generating units and other equipment to be installed by the United States shall be in sufficient number and of sufficient capacity to generate the energy allocated to and taken by the lessees and the various allottees served by each lessee, as stated in article 14 hereof, upon the load factors stated by the respective allottees with proper allowance for the combined load factors of all allottees served by each lessee. Each lessee shall give notice to the Secretary of the date at which it requires its generating equipment to be ready for operation, such notice to be given at least three years before said date. If a lesser number of generating units is initially installed, the United States will furnish and install at a later date or from time to time on like terms, such additional units as with the original installation will generate the energy allocated * * *.

Article 9 (b) provides that no charge shall be made against either lessee on account of cost of machinery required to be installed in consequence of execution of a contract for electrical energy by a State unless such machinery is to be used partially for the benefit of such lessee. From the foregoing provisions it is clear that the capacity of the generating units initially installed will be determined by the generating requirements of the two lessees in accordance with the notification which the lessees are required to make to the Secretary. Thereafter additional units may be installed if necessary to meet the requirements of the lessees or if and when contracts are made with other allottees, including the States. Plainly the additional units are not to be installed except in pursuance of the execution of contracts with the allottees for the energy allocated or some part thereof. Thus the energy available will be at the outset the capacity of the units installed to meet the requirements of which the lessees have notified the Secretary. Subsequently the energy available may be increased as additional units are installed in consequence of the execution of contracts with other allottees. This must be so because energy can not be available in excess of the capacity of the generating units installed.

So far as falling water available is concerned, article 21 provides that in the event of discontinuance of falling water the minimum payments shall be reduced by the ratio that the total number of hours of such discontinuance bears to 8,760. However, falling water is of no value unless generating units capable of using it have been installed. It is therefore our opinion that the total energy available within the meaning of article 17 is determined by the capacity of the units installed as set forth above reduced by the proportionate time during which such units are rendered unavailable for generating purposes through the discontinuance of falling water.

Article 17, however, does not make the lessees severally liable for any fixed amount of energy available. The minimum payments are to be determined not only with relation to the amount of energy available but also with respect to the amount of such available energy which the lessees severally are obligated to take and pay for. We turn therefore to the instrument once again to determine what, if anything, it provides in respect of the amount of energy which each lessee is obligated to take. The only articles which throw any light upon this inquiry are articles 14 and 15. Article 15 merely defines the term "firm energy" as being for the first year of operation 4,240,000,000 kilowatt-hours. For each subsequent year the amount defined is to be decreased by 8,760,000 kilowatt-hours per year. This article obviously imposes no obligations.

Article 14, so far as relevant to any supposed obligation assumed by the lessees, is as follows:

"ALLOCATION OF ENERGY

"14. The Secretary reserves and, as against the lessees, may exercise the power in accordance with the provisions of this contract to contract with the other allottees named in this article for the furnishing of energy to such allottees at transmission voltage in accordance with the allocation to each such allottee, and the Secretary is authorized by each lessee to enforce as against it the rights acquired by such other allottees under such contracts. Each lessee severally in accordance with the agency designations made in paragraph (d) of article 10, covenants to generate and furnish energy, at transmission voltage, needed to meet the following requirements of the allottees (other than lessees) named below, the allocations of firm energy being made in percentages of the total firm energy as defined in article 15 hereof, to be delivered to such allottees at said Boulder Dam power plant.

"OF FIRM ENERGY

"a. To the State of Nevada * * * 18 per cent * * *.

"b. To the State of Arizona * * * 18 per cent * * *.

"c. To the Metropolitan Water District of Southern California, so much energy as may be needed and used for pumping Colorado River water into and in its aqueduct for the use of such district within the following limits:

"1. Not exceeding 36 per cent of said total firm energy, plus.

"d. To the municipalities (stating them), 6 per cent * * *.

"e. To the city of Los Angeles, 13 per cent.

"f. To Southern California Edison Co. (Ltd.) (and other named private corporations), 9 per cent.

"The foregoing allocations are subject to the following conditions:

"(i) So much of the energy allocated to the States—36 per cent of the firm energy—and not in use by them, or failing their use, by the district for the above purposes, shall be taken and paid for, one-half by the city and one-half by the company.

"(ii) All of the energy allocated to the municipalities * * * as is not so contracted for, or, if contracted for, not used by them directly or under contract for municipal purposes and/or distribution to their inhabitants shall be taken and paid for by the city.

"(iii) So much of the energy allocated to the Southern Sierras Power Co., the San Diego Consolidated Gas & Electric Co., and the Los Angeles Gas & Electric Corporation as is not firmly contracted for by them, severally, in compliance with regulations of the Secretary on or before April 15, 1931, shall be taken and paid for by the company."

* * * * * * *

There can be no doubt that down to the words "the foregoing allocations are subject to the following conditions," article 14 contains no words which directly or by any possible construction can be said to impose any obligation upon either of the lessees to take and pay for any energy. In fact, the covenant which the lessees make in the second sentence of article 14 to generate and furnish energy expressly excepts from the covenant energy required to meet the allocations to the lessees stated below. Reading articles 14 and 15 together, it is apparent that an allocation is merely a reservation for, a setting aside for, a division among the allottees of certain defined ultimate potential generating capacity. Such an allocation obviously is not intended to and can not pass title to anything not in being so as to commit the allottee to pay the purchase price thereof. If it had been intended to commit the lessees to generate, take, and/or pay for the full amount of energy reserved for them it would have been a very simple thing to have so provided in the contract. However, there is not only no such provision in the article, but the only covenant which the article contains is in the portion under discussion, which expressly excepts from its provisions an obligation to generate energy allotted to the lessees, respectively.

We turn, then, to the remaining portion of the article imposing the conditions to determine the purpose and meaning of that portion. After making the allocations discussed above the article states that the allocations are "subject to the following conditions," the conditions being to take and pay for energy allocated to certain other allottees and not taken by them. As stated above, an allottee of an allocation has merely an equitable right to certain future potential generating capacity. Such a right subject to a condition is common in the law. An illustration of an equitable right subject to a condition is the right of a purchaser of property subject to a mortgage. There is no obligation upon the purchaser to pay the mortgage, but if he does not pay the mortgage he will lose his right. That is obviously the purpose and meaning of the conditions in the present case. The right of the lessees to have power reserved for them is subject to the conditions set forth in article 14. Their rights to the allocation can be preserved only so long as they perform the conditions. If they fail to perform the conditions, the allocations subject to the conditions are lost to them.

This, however, does not mean that in order to preserve their respective rights in their allocations the lessees respectively must necessarily pay for the full amount of energy allotted to the other allottees mentioned in the conditions. This is so for two reasons, both found in the express language of the instrument. First, the conditions are to "take and pay for." Energy can not be taken unless and until the generating capacity necessary to generate has been installed; and, second, this language in the conditions is clearly consistent with and designed to be consistent with the language of article 17, defining the minimum annual payments, which provides that such minimum annual payments shall be determined with relation to "the number of kilowatt-hours of firm energy available to each lessee and which said lessee is obligated to take and/or pay for."

Thus although the instrument in this respect is drawn with singular confusion, the meaning of the provisions is clear enough when the various articles are analyzed and the complementary provisions stated together. Stated in terms of its practical application our conclusions in regard to the obligations imposed upon the lessees to take and pay for energy are as follows:

1. There is no obligation upon either lessee to take and/or pay for any energy except as a condition to preserve their respective rights in their respective allocations. If a lessee takes and/or pays for no energy whatever such lessee loses its allocation. In such a case, however, there is no provision of the instrument under which the United States could bring suit against such lessee and require it to take and/or pay for any energy.

2. If, however, a lessee desires to maintain its right to its allocation it can do so by making the minimum payments required in article 17 which are determined by ascertaining the amount of energy available and which such lessee is required by conditions (i), (ii), or (iii) to take. In other words, a lessee is required in order to preserve its allocation to pay for the energy actually taken by it or the energy referred to in the various conditions applicable to such lessee and available—whichever is greater.

3. Thus, if in consequence of contracts made with the States and the other allottees the total generating capacity contemplated by article 15 is installed the total minimum payments which the city must make in order to preserve its allocation can not exceed 24 per cent of 4,240,000,000 kilowatt-hours, and the total minimum payments which the company must make in order to preserve its allocation can not exceed 27 per cent of 4,240,000,000 kilowatt-hours, or a total of 51 per cent. If the energy available is less than the foregoing the obligations to take and pay for in order to preserve allocations are correspondingly less in absolute sums. There is no obligation upon either lessee to pay a greater amount unless the energy actually taken by such lessee exceeds such amount and neither lessee need take any energy whatever if it is prepared by reason thereof to lose its right to its allocation.

3. THE INSTRUMENT IS NOT A COMPLIANCE WITH THE REQUIREMENTS OF THE BOULDER CANYON PROJECT ACT, SECTION 4 (B)

The act, in our opinion, does not confide to the judgment of the Secretary the determination of the validity or enforceability of a contract made by him. His judgment is confined to the adequacy of the amounts provided to be paid in the instrument. Upon that his judgment may be conclusive. But if, as a matter of law, the instrument is not a valid contract then it is a nullity and no provision whatever has been made for the payments set forth therein. Furthermore, if, as a matter of law, the instrument does not provide for the payments which the Secretary states are necessary in his judgment, then, also, he has not made provision by contract for revenues adequate in his judgment to repay the United States.

For the reasons set forth above the instrument fails to meet both of these tests. In our opinion, it is, as a matter of law, a nullity because the city has not the legal capacity to assume the obligations sought to be assumed. Also, in our opinion, it wholly fails, as a matter of law, to obligate the city or the company to pay the revenues (adequate in the judgment of the Secretary) out of which the cost of the dam is to be amortized.

CONCLUSION

It is, therefore, our opinion that:

1. Contracts made in pursuance of section 4 (b) of the Boulder Canyon project act must be, as a matter of law, valid, enforceable contracts and must, as a matter of law, obligate the contractors to pay revenues determined by the Secretary to be necessary and adequate to reimburse the United States. The amount of revenues necessary and adequate is left to the judgment of the Secretary. But the validity, enforceability, and legal effect of the contracts are matters of law and not for the judgment of the Secretary.

2. The instrument, Contract for Delivery of Water, executed by the Metropolitan Water District of Southern California and dated April 24, 1930, is void for want of mutuality and is not a contract.

3. The instrument, Contract for Electrical Energy, executed by the Metropolitan Water District of Southern California and dated April 26, 1930, is void for want of mutuality and is not a contract.

4. The attempted contract between the city of Los Angeles and the United States contained within the instrument dated April 26, 1930, is void and the city's alleged obligations under it unenforceable, because entered into without the assent of two-thirds of the voters in violation of the California constitution.

5. The condition required to be performed by the Secretary by section 4 (b) of the Boulder Canyon project act before any money is appropriated for the construction of said dam or power plant, or any construction work done or contracted for has not been performed by the execution of the instruments submitted to us.

Respectfully,

COVINGTON, BURLING & RUBLEE,
By DEAN ACHESON.

WASHINGTON, D. C., *May 23, 1930.*

Mr. ASHURST. Mr. President, now, I ask that the opinion in regard to Boulder Dam contracts be referred to the Senate Committee on Printing, as I desire to have the same printed also as a Senate document.

Mr. McNARY. Mr. President, what particular demand for that document justifies its being printed as a Senate document?

Mr. ASHURST. It relates to the validity of the so-called Boulder Dam contracts for the sale of water and electrical energy.

Mr. McNARY. Does it affect private contracts or some action of the Secretary of the Interior?

Mr. ASHURST. It relates to and discusses the contracts entered into by the Secretary of the Interior.

The VICE PRESIDENT. Without objection, the opinion will be referred to the Committee on Printing.

LIGHT AND POWER RATES

Mr. DILL. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Tacoma Gives Cheapest Light in the Country," written by Mr. Homer T. Bone and printed in the Progressive. It explains the low rate for electric power furnished by the municipal plant in the city of Tacoma.

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

TACOMA GIVES CHEAPEST LIGHT IN THE COUNTRY—PUBLICLY OWNED SYSTEM MAKING BIG EXPANSION PLANS FOR FUTURE

Tacoma gives to its people the cheapest light and power rate in the United States. And this outstanding service is possible through public ownership of one of the finest power systems in the world. The enormous increase of consumption due in large part to these cheap rates is forcing the city to reach out for more sources of power to meet the future demands on the system. A short time ago the city filed on what is called the Packwood Lake power site. This site will produce about 60,000 horsepower with a water head of 1,800 feet. The city also plans to further develop the Nisqually River power site (on which its first small 32,000 horsepower plant was built) by building a huge dam acros the river and creating a large lake that will produce 300,000 horsepower of electric energy. Both the Packwood and greater Nisqually projects will follow the present expansion of the Lake Cushman development. It thus appears that Tacoma has under its control and expects to develop in the future sources of electric energy in excess of 50,000 horsepower. And this will be the property of the people and a never-ending source of the cheapest power in the Nation. Tacoma is showing the country what a city can do for its own people.

OPERATING COSTS LOW

The operating costs of the Tacoma light system are lower than those of its private competitors in this State. It does not carry in this account the inevitable political contributions so necessary to the program of the private combines. And it pays union scales of wages to its men, which, incidentally, are considerably higher than those paid by its private opponent. The city enjoys a complete monopoly of all lighting business and a practical monopoly of all the industrial power business within the city. The city charter excludes competition in the lighting field, and the one private competitor in the industrial power field has been denied a renewal of its franchise, which expires in June, 1930. It now has about 30 customers.

The diversion of funds from the light system will be interesting to your readers. In 1927, the city expended light funds as follows:

| | Per cent |
|---|---|
| Interest on bonded debt | 13.1 |
| Depreciation (including extensions and betterments) | 27.0 |
| Redemption of utility bonds | 24.4 |
| Expended on Cushman project | 4.3 |
| General expenses | 26.5 |
| Taxes to the city | 4.7 |

(This tax rate is now 7½ per cent, in 1930.)

The domestic light rate begins at 4½ cents and drops to 1 cent per kilowatt-hour. A small home gets the 1-cent rate after using 20 kilowatt-hours of current. The larger the home, the more it must use at 4½ cents before getting the 1-cent rate. Floor space is measured to apply this primary 4½-cent rate. This means that practically every home in Tacoma can use most of the current on the 1-cent rate. Hundreds of homes have a heating rate of one-half cent per kilowatt-hour, and there are apartments in Tacoma heated exclusively by electricity, with no chimney.

The commercial power rate is in accordance with the quantity used in any one month, as measured in kilowatt-hours. For the purpose of computing the bill, the number of kilowatt-hours of electric current is divided into two portions:

(1) The number of kilowatt-hours equal to or less than seventy times the load measured in kilowatts.

(2) Any remaining kilowatt-hours after subtracting a number equal to seventy times the load measured in kilowatts.

The first portion shall be charged in accordance to schedule No. 1 below, and the second portion according to schedule No. 2 below:

Schedule No. 1. First 5,000 kilowatt-hours, 2 cents per kilowatt-hour; excess 1 cent per kilowatt-hour.

Schedule No. 2. First 20,000 kilowatt-hours, one-half cent per kilowatt-hour; excess three-tenths of 1 cent per kilowatt-hour.

There is a minimum charge of 75 cents per horsepower or $1 per kilowatt of maximum demand, except where the voltage is greater than 500 volts or where the service is what is known as an emergency or breakdown service, where the minimum charge is fixed by the commissioner. Contracts for blocks of power greater than 1,000 kilowatts, or for any special length of time, will be negotiated individually with the approval of the city council. The charter allows the city council to make power contracts extending for 10 years.

COMMERCIAL LIGHTING RATE

The commercial lighting rate runs from 3½ cents down to one-half cent per kilowatt-hour where the load goes over 2,500 kilowatt-hours per month. The charge for this service is slightly increased where the city furnishes fixtures, lamps, and renewal service. Churches and fraternal organizations receive the same rate as dwellings.

Underlying the principle of public ownership is the sane and healthy practice of retiring any debt against the plant, in large yearly installments. The present debt of the Tacoma Light Department ($5,685,000) is wholly due to very recent expansions in connection with the new Cushman development. This debt will disappear in a very few years. Prior to the issuance of these bonds the light department was entirely free of debt. This practice should be contrasted with that of private companies which never retire their stock and bond issues. If a bond issue is retired, it is generally a refunding process which leaves the debt intact, with the usual costs incident to such a transaction. Stocks and bonds of private power companies constitute a perpetual debt upon which the public must forever pay interest and dividends. Systems of private financing do not permit of any relief from this burden. The defects are inherent in the system of private financing. Under systems of public regulation where a rate base is determined by State regulatory bodies, there is always a struggle, which is political in character, to inflate this rate base out of all true proportions to legitimate investments. This has been proved times without number in the now celebrated reproduction-cost cases before the courts.

By injecting fictitious values into a rate base, these companies escape the charge of watering their stock, for by this process of law they are permitted to water a rate base, which is infinitely more clever. The tragic part of the story is that this is accomplished under forms of law.

TRUSTS AND FINANCES

All over the country gigantic power concerns are merging into huge trusts, occupying vast areas of territory. Every one of these mergers calls for a readjustment of the financial structures of the companies, which means new and added values on which the public must forever pay interest and dividends. Systems of public regulation of these private companies generally exclude competition (through so-called certificate of necessity laws) thereby creating a soulless monopoly. Thoughtful people will contrast this form of perpetuating burdens on the people with the wholesome system used in Tacoma where plant expansions are financed with utility bonds which are paid off within a few years from plant earnings, which ultimately result in the plant becoming the absolute property of the people without a dollar of capital investment therein. Under such a system there remains nothing but operating expenses to pay, and a proper reserve for depreciation. The system is simple, sane, and satisfactory, and has been proven to be such by a lifetime of experience. No careful lawyer will challenge the feasibility and safety of such a set-up.

Under systems of public regulation, if a private power company does not make what it considers an adequate return on its rate base, all that it need do is to raise its rates. Its return on this valuation for rate-making purposes is practically guaranteed by law. In this "return" the company may include all of its operating expenses in which are incorporated contributions for political purposes. The people are thus placed in the position of being compelled, involuntarily, to contribute to the political manipulation of the private companies which is aimed at maintaining the highest rate that can be imposed under the law.

PROSPERITY AND THE TARIFF

Mr. DILL. Mr. President, I ask unanimous consent to have printed in the RECORD a pamphlet entitled "Can President Hoover Assure Equitable Prosperity?"

The VICE PRESIDENT. Is there objection?

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

CAN PRESIDENT HOOVER ASSURE EQUITABLE PROSPERITY?

By S. S. Taber

CHAPTER I. PRIVILEGE IN THE TARIFF

That President Hoover is to be highly commended for his quick action in calling into conference financial, industrial, and labor leaders to provide a remedy for the present business situation, no one will deny.

But is it possible for the President or any of his counselors to present a method whereby equitable prosperity can be assured, without changing our revenue or tax laws?

That our present prosperity is not equitable will be generally admitted. A brief survey reveals, that in spite of our 140 years of constitutional government, we have succeeded in creating such a concentration of wealth, as the world has never seen before.

In figurative language, we have developed a towering mountain, whose peak above the clouds is almost invisible, while the surrounding country resembles a low, flat plain, some portions of which are below the sea level.

Taking the figures from the income-tax department, we find there are 496 citizens having incomes of $1,000,000 and over: Twenty-four citizens drawing $5,000,000 and over while 40,000 citizens are millionaires.

In contrast, there are less than two and a half million citizens that are able to pay any income tax at all, showing that about 118,000,000 people, only had incomes sufficient and insufficient to keep the wolf from the door.

It requires no lengthy study to connect the 86 per cent that Secretary of Labor Davis says are poor, with many evils in our economic life. Even the so-called crime wave is continually furnished material by both extremes of our social order—the froth and the dregs. We can trace to this great mass of poverty our miserable housing conditions and the slum districts; also the condemnation of 2,000,000 children, between 10 and 15 years to practical slavery; and again to that vast increasing army of involuntary unemployed, that even since 1921 modern inventions have increased by some 2,300,000 workers.

Taking a few statistics from United States Government reports, we find that of 100 men at 65 years of age, 36 are dead or are physical wrecks; 54 financial wrecks, living on charity; 5 are still on the treadmill and 5 are wealthy.

For those who are living comfortably and are inclined to regard the presentation of disagreeable facts as gross exaggerations, a brief extract from the Secretary of Labor, Mr. Davis, who, of all men in the United States should know the truth, is here introduced. Speaking before the "master farmers" of Kansas recently, he is reported as saying, "All but about 6 per cent of our markets are within the Nation. We are our own best customers, yet literally millions of our people are without any purchasing power whatever, because they have no jobs, and other and more millions are unable to buy what they need, not to say what they want, because of chronically inadequate wages. In the neighborhood of 10,000,000 of our gainfully employed earn only from 25 to 30 cents an hour. In some sections of the country and in certain industries the hourly rates are as low as 15 cents. * * *

You will find 40,000 idle men in Detroit, 50,000 in New York, as many more in Philadelphia and proportional numbers in other industrial centers.

From the above portrayal of existing business conditions it is evident that some monkey wrench must be obstructing the smooth running of our economic machine. In fact many thinking men throughout the Nation agree that concentrated wealth signifies concentrated economic and political power. As expressed by Mr. Brisbane, "One hundred men undoubtedly have more power than the rest of our one hundred and twenty millions," and again, "Calvin Coolidge says our democracy has shown ability to take care of itself. It might be more accurately said that our plutocracy has proved its ability to take care of our democracy, giving it steady work, and as good wages as democracy can reasonably expect."

Having given a rather pessimistic but fairly faithful representation of the present economic situation in these United States, let us discover, if possible, the trick in our legal system that continually works injustice to the creators of wealth, by robbing the many to enrich the few.

It is so interwoven in our economic life that the average citizen rarely gives it consideration. If the business world is slack and the economic shoe pinches, investigation is usually arrested by the terms, "hard times"; "industrial depression"; "lack of trade"; etc. Nevertheless, with a little persistence the villainous cause of inequity can be found in our tax laws, and its name is "Privilege."

Using dictionary language, privilege is "a special and exclusive power conferred by law on particular persons, and ordinarily in derogation of the common right." In other words, man-made law (that can be unmade) confers upon some particular citizens the right and power to tax all other citizens.

This privilege can be found throughout our entire revenue system from the Nation down. Considering the Nation first and the revenue laws that were put into operation to assist in maintaining it, we find that while they were introduced in good faith, that they have been taken advantage of more and more in the passing years until at the present time there is a great bulk of privilege lying behind what is known as the tariff. A tariff is defined as "the law by which duties are imposed, also the principles governing their imposition."

Under this law that imposes taxes on imports, and hence denies a free market for supposedly free citizens, importers pay the tax, but collect with profit thereon from consumers.

Domestic manufacturers and others engaged in a competitive or protected business are enabled to increase their prices to the extent of the tax or tariff. This privilege is equal to a governmental subsidy, and explains the occasion of a lobby in Washington.

The recent lobby-investigating committee of the Senate has revealed to the American people, as never before, the why and wherefore of the tariff. The shameless intrigue and duplicity of one Senator demanding privilege, obliged the Senate to pass a resolution of condemnation.

One paper referring to a lobbyist of 50 years' experience, uses this language: "The substance of Grundyism is that national elections are won by great gobs of money, and that the Grundys that put up the money have the absolute right to demand that Congress pass, and the President sign, laws, the fundamental purpose of which is to recoup the Grundys for every dollar and dime risked on the election. According to our judgment Grundyism is the enthronement of the human hog in politics and society, for whom the laws serve as snout and tushes, and the rank and file of the people and the good will of mankind as the things to be rooted and torn."

Another paper says: "The old guard in House and Senate proceeded to produce a bill written by eastern industrialists, which raised the tariff on manufactured articles to hitherto unheard-of heights. This meant the ruin of the farmer, not to say the ruin of the country generally. Ruin or no ruin, it was robbery of the most barefaced description."

And a brief extract from an editorial in the Christian Science Monitor reads: "Many statesmenlike thinkers are beginning to doubt the wisdom of taxing four-fifths of the Nation to enrich one-fifth. The question is asked whether any industry or section gains by paying more for what it buys in order to get more for what it sells. Is it not time to stop regarding the tariff as a grab-bag?"

It causes no surprise, therefore, that a Congressman has said the people can never respect "bought" legislation.

A tariff simply signifies the legal privilege of a few to plunder the many; in harmony with Chief Justice Fuller, who said: "To lay with one hand the power of the Government on the property of the citizen and with the other to bestow it on favored individuals to aid private enterprises and build up private fortunes is none the less robbery because it is done under the forms of law and is called taxation."

Our successful business men apparently hold that the "dole" method of Great Britain—robbing the rich to give to the poor—is decidedly corrupting and thoroughly demoralizing to both the youth and adult that receive it.

But would not the disinterested "man from Mars," scrutinizing national policies, be inclined to consider a "dole" system and a "tariff" system as essentially similar; in fact, would not the "dole," that takes from the affluent to aid poverty, make a much greater appeal to his sympathy and respect than a "tariff" that increases the price of necessities, and thus plunders poor consumers, to enhance the profits of organized wealth?

It would be billions of dollars in the pockets of the American citizens if this whole system of governmental interference to block the desires of our people to trade and expand their commerce with other peoples were utterly abolished and those industrial mendicants who are unable to earn their salt without subsidy were given an ample pension for life.

The greatest indictment against this socialistic paternalism is that it destroys the identical basic principle for which the Government was founded, namely, equality of opportunity before the law. Wherever privilege is admitted equity is excluded.

CHAPTER 2. PRIVILEGE IN THE GENERAL PROPERTY TAX

It does seem a bit curious that our National Government, designed, as the fathers thought, to establish justice and equality of opportunity before the law, should borrow and adopt a revenue system that included a trick that virtually nullified and abrogated those fundamental ideals; but as we have learned that in the tariff law, our revenue system granted a special privilege that enriched the few by impoverishing the many, let us now examine the general property tax, by means of which cities and towns obtain their revenue, and discover if there is still another obstruction to an equitable distribution of prosperity.

The law divides property into two classes—personal and real estate, or movables and immovables.

Analyzing real estate, we find embodied in that term three distinct elements: First, land that is a gift of nature, but made property by law; second, improvements on the land made by man; and third, ground or economic rent, called the unearned increment, that is created by the expenditure and activities of the general public, and is a community created value.

These three items that are so entirely dissimilar are all bunched together in common parlance and known as real estate or real property.

The distinction between these divergent elements is easily seen. When we invest in vacant land we obtain a law-made privilege of owning a bit of God's earth (as commonly expressed) that was here a million years before we arrived and will probably be here a million years after we leave. We can use it any way (within law) we see fit. Discovering coal, oil, gold, etc., below the surface, it is our private property. We own upwards as well as downwards. Anything of value falling within our boundary line, from manna to meteorites, becomes a private possession; not only values we create ourselves, but also the values created by the expenditures of the Public Treasury and the individual enterprise of our fellow citizens; in other words, ground or economic rent, the increment unearned and community created, that would persist in spite of us.

The law is exceedingly generous to landowners. The investor in land for speculation needs only to keep the title deed in the safe-deposit box and be able to show the tax receipt. It is not necessary to employ labor or take out insurance. Even if the lessee puts up a fine building in which to conduct business, it becomes the private property of the landowner at the expiration of the lease.

To tax land according to its area is to retard and check all endeavors for progress and advancement; also to perpetrate an injustice, as hardly any two bits of earth are similar.

As to the second element in real estate—improvements—when we invest our hard-earned wealth in a building we call into activity all the workers engaged in the building trade, our labor is exchanged for their labor, and all parties benefited. The building thus created is an addition and improvement to the city. It not only assists in developing the city, but every building erected increases the land value of all landowners. The creator of this additional wealth is certainly entitled to interest on his investment, called house rent.

To fine every home builder with an annual tax for beautifying the city is to oppress and discourage building enterprise and to increase the cost of living to home users. Building values depreciate each year until they finally become nonexistent.

In regard to the third element found included in the term "real estate"—ground or economic rent, called the unearned increment—it is so seldom referred to by the press and thus apparently ignored, that a fair presentation is necessary.

The most complete definition is that offered by Mr. C. B. Fillebrown, of Boston, a well-known economic writer some years ago, whose books on economic questions can still be found in most libraries. To the question, "What is meant by economic rent?" the answer is, "Gross ground rent the annual site value of land—what land is worth annually for use; what the land does or would command for use per annum if offered in open market—the annual value of the exclusive use and control of a given area of land involving the enjoyment of those 'rights and privileges thereto pertaining,' * * * the economic and social advantages of land independent of any quality or content of the ground or land itself, and which are due to the presence and activity of population, and are inseparable therefrom, including the benefit of proximity to and command of facilities for commerce and communication with the world—an artificial value created primarily through public expenditure of taxes."

This ground-rent or community-created value, continually increasing in growing cities, is a perfect reflector of values occasioned by the advancing development of the city itself, and by all the industrial activities of its citizens. It is a peculiarly social creation, coming and going with the people themselves like a shadow; large population, large values; small population, small values, always in harmony and adequate to meet the governmental needs of a community. This fact so appealed to a leading New York lawyer (Mr. Thomas G. Shearman), that he published a book entitled, "Natural Taxation," maintaining the proposition that ground rent was the natural revenue for governments. (The writer hereby offers $100 for a refutation of Mr. Shearman's argument, leaving the decision with Prof. Irving Fisher, of Yale, if he will consent.)

When the average citizen is informed that all property is taxed alike, that appears on the face of it to be fair and reasonable and the subject is dismissed from the mind; but the foregoing analysis of the term real estate shows clearly that included therein are two opposing or absolutely divergent elements. A tax upon one has just the opposite effect of a tax upon the other.

One, land ownership, that of itself confers no benefit whatsoever upon society, and yet by law is given the right and special privilege of appropriating the ground rent created by society.

A tax upon this element has the effect of decreasing the cost of land, in that the amount of the tax reduces the economic rent which the owner may appropriate, and hence makes his privilege of less market value. The other—improvements—buildings representing the results of both capital and labor, confers general benefits and increased land values upon society.

A tax levied upon this second element has the effect of discouraging and obstructing the development of the city, impeding and preventing industry, reducing both interest and wages, and increasing the cost of all buildings to all users.

The reason for the iteration and reiteration of the distinction between land ownership and industry and the effect of a tax upon these divergent elements in real property is to bring home the fact to even the youngest student that within the so-called general property tax there may be perceived another great bulk of privilege. The tax budget is a fixed amount, hence when the governmental power taxes industry or man-made products it simply relieves to that extent the obligation of land ownership to return to the public treasury the ground-rent or community-created value that good government and society has already conferred.

In other words, the tax money taken from the private earnings of workers and producers is virtually given by the general property tax to holders of a law-made privilege.

The general property tax is thus seen, not as fair and equitable but as a method of enriching a certain specially privileged landowning, and maybe nonproducing, class, by impoverishing both the capital and labor engaged in production.

That this ground rent or unearned increment is entirely unearned by landownership (the law-made beneficiary of a privilege to appropriate communal wealth) is clearly perceived.

No better illustration has been furnished lately than the instance related by Mr. H. G. Zander, president of the National Association of Real Estate Boards, reported as follows: "In Chicago there was a certain piece of property that could not be sold five years ago for $30,000. Recently, after street improvements had been made, it sold for more than $1,000,000. This unearned increment was handed to the owner on a silver platter by the whole city of Chicago, which paid the cost of the improvement by a bond issue spread over the whole city." Nine hundred and seventy thousand dollars awarded to just one locality. Without doubt the city of Chicago need not have issued any bonds at all if a percentage of the increase in values it created for all the localities affected had been returned to the treasury.

A rather amusing instance was reported some time ago.

It seems Sambo, just before he was sent up for a term of years, was given a shack and some land on the outskirts, where his wife could hang out a washboard and raise chickens.

What was his surprise at the expiration of his sentence to find Miranda, the washwoman, dressed in the best of style and living in affluence at a hotel. The city in its development had encompassed the little chicken ranch, and Sambo found himself drawing in very handsome rentals from his leased ground.

And following this life history to its close, we read in his obituary, "He was a splendid example of what can be accomplished under our democratic laws of equality of opportunity.

"In defiance of the handicap of color; of birth in the depths of poverty; his pioneering spirit, keen foresight, and appreciation of existing legal institutions, had achieved for him not only a fortune but had developed as a lasting monument to his memory one of the finest blocks in his beloved city."

And for a final illustration that landowners have greatness thrust upon them:

What millions and billions the Minuit family, if they had continued till now, would be taking in if old Peter, who paid $24 in 1626 for Manhattan Island, had leased instead of sold? It makes one dizzy to think of it; and also calls up questions as to the rights of one generation over another.

Should the community created value of New York be taken by the community that creates it now, or should Peter Minuit's family line have the better right? If the question were taken into the courts, the decision would undoubtedly be in favor of Peter's descendents; as rent from the old Randall Farm on Manhattan is still supplying every luxury for Sailor's Snug Harbor.

Sometimes law-made decisions are at variance with moral decisions; reminding of Herbert Spencer in Social Statistics, "It may by and by be perceived that equity utters dictates to which we have not listened, and men may then learn that to deprive others of their rights to the use of the earth is to commit a crime inferior only in wickedness to the crime of taking away their lives or personal liberties."

CHAPTER III. PROGRESS IN GREAT BRITAIN

Of all the industrial leaders called into conference by President Hoover, only Mr. Ford has touched upon rent.

He is reported as saying, "Wages must not go down—they must go up. And even that is not sufficient of itself—we must see to it that the increased wages are not taken away from our people by increased prices that do not represent increased values. The country gains no benefit by letting the working man earn an extra hundred dollars and then taking it away from him again in increased rent, and a rise in prices generally."

Mr. Ford is to be highly praised, and is entitled to the public thanks of President Hoover and his conferees, for calling attention to this very important question of rent—the most influential factor in an equitable prosperity.

Ground rent or community-created value is the measure of all the cultural, social, and industrial forces of society; in marked contrast with the general property tax, which may rightly be considered "institutionalized inequity."

Industrial leaders have begun to realize the necessity of purchasing power in the hands of the workers; also that it is possible to increase wages and at the same time decrease prices. A very long step from the old philosophy.

Now, why should they not agree with Mr. Ford that if rent absorbs increased wages, that the increased purchasing power necessary to further production and prosperity is practically lost and "the country gains no benefit"?

While ground rent is rarely referred to in the United States, it is a very vital issue in Great Britain. The taxation of land values (capitalized ground rent) has been a plank in the platform of both the Liberal and Labor Parties for many years. It has been advocated by many leading statesmen, including three past Premiers and the present Mr. Ramsay MacDonald.

The following brief quotation from the present Premier gives an idea of the current concept or attitude of mind of many political leaders in Great Britain in regard to the term "rent."

"Rent (ground rent) is a toll, not a payment for services. By it social values are transferred from social pools into private pockets, and it becomes the means of vast economic exploitation. * * * Rent is obviously a common resource. Differences in fertility and value of site must be equalized by rent, but it ought to go to common funds and be spent in the common interest."

The present Chancellor of the Exchequer, Mr. Snowden, has promised to bring in a measure having that tendency in his next "budget." However, the vested interests of Great Britain are fighting most desperately to retain their privilege of appropriating the communal rent that they have so long enjoyed, hence a rapid economic change can hardly be expected. But privilege finally must give way to social justice.

Years ago the statesmen of Great Britain were forced to study the question of housing and unemployment. As a result, many were convinced that idle land signified idle men, hence the taxation of land values to eliminate the speculative price of land and bring it within reach of the worker; and at the same time to relieve industry to the same extent, in order to reduce the cost of living, and furnish labor with an incentive to produce. This program if adhered to by the labor administration will undoubtedly develop and restore the general prosperity. With a constantly increasing purchasing power on the part of the poorest in the industrial field, there can be no limit to the economic welfare and universal prosperity of all citizens.

The problem facing President Hoover like that facing Premier MacDonald and originating in the same way, is, how to keep the weakest members of the body politic supplied with purchasing power—the unemployed must have opportunity to employ themselves.

Summing up conclusions as to President Hoover's ability to assure equitable prosperity, we find that the particular authors of our national revenue system were responsible for including therein the evil of privilege; thus excluding any possibility of equity.

Dealing with the general property tax, we discover the same identical evil—privilege—completely concealed from the average vision behind the word property. Thus in both the national and the local methods of taxation, there is sufficient dynamite to blast and destroy our economic well-being.

The efforts President Hoover is making to rejuvenate our decaying civilization is worthy of admiration; but economic law can not be thrust aside. The greatly augmented industrial activity by the employees of thousands of business leaders, even if realized, will have just the same effect now as in the past; ground rentals will be increased, making it still more difficult for business to survive. Only about a quarter of the rentals will flow into the public treasury, leaving industry to carry the heavy end of the tax load; which means less interest to capital; less wages to labor; and increased cost of products to consumers.

President Hoover can only escape disaster by using the same methods Mr. Snowden has promised to introduce—removing tax burdens from industry and obliging privilege to pay an equivalent for the values it receives.

Let us hope our President engineer will use the tools that will guarantee equitable prosperity. (S. S. Taber.)

SIMILAR THOUGHT

The most necessary reform that I know of is the exemption of improvements and the taxation of land values only. (George Foster Peabody.)

It is unendurable that great increments, great additions, that have not been earned by those to whom they accrue, and have been formed by the industry of others, should be absorbed by people who have not contributed to that increase. (John Morley.)

We say that the land, or rather the value that the community, by its aggregation, by its industry, by its enterprise, by its public improvements, has given the land—must be made to have its fair share of the burdens, now thrown upon industry. Our present land laws cause a greater drag upon trade and are a greater peril to the standard of living than all the tariffs of Germany and America, and even our own colonies. * * * What we believe is that with even a moderate application of the principle of land-value taxation something appreciable may be done to lighten the burden of house rent, to diminish the evils of crowding, and to relieve the pressure on manufactures. (Sir Henry Campbell Bannerman.)

The taxation of the site value, if it could replace the whole of the rates on building, would entirely sweep away this obstacle to the builder's enterprise. So far as it is used to diminish the rates on building it diminishes the obstacle. For many years we have maintained that the greatest and simplest reform in housing would be simply to lower if not to sweep away the tax on building. (Manchester Guardian.)

The gulf between the rich and poor, the periodical breakdown of the modern industrial machine, causing widespread destitution, the sinister economic mechanism by which the owners of monopolies—especially land—can claim an extra toll every time that communal wisdom and conscience adopt some scheme to alleviate the lot of the most hardly pressed classes, conclusively show that society does not yet meet the requirements of human standards of use and value. (Rt. Hon. J. Ramsay MacDonald.)

There was no doubt that land values in this country would be a very profitable source of taxation. It was not only a fair source, but one which by its nature recommended itself as being a source from which revenue should be derived.

There had been the greatest increase in the value of land, and in many cases the growth of the country, and the money spent by the country on improvements, had added to the value of the land without a single effort on the part of the owner.

In dealing with the question of ground values they would be doing something in the direction of reconciling necessity with justice. (Sir Edward Grey.)

I suppose almost alone in the category of social and fiscal reforms, this [taxation of land values] is one which meets with practically the unanimous approval, without distinction of politics or party, of all the great municipalities. * * * What are the two great principles upon which, as far as I understand it, it is founded? They are very simple.

They seem to me to be based upon common sense and equity.

The first is that those who benefit by public improvements, those who especially benefit by public improvements, should contribute their fair share of the cost of them. The next is—and I think it is right and just—that the community should reap the benefit of the increased values which are due to its own expenditures and its own growth. These two principles appear to me not to be inconsistent, but are a necessary corollary of the doctrine of the rights of property if equitably applied. (Premier H. H. Asquith.)

Farmers have always paid more than their fair share of taxes, and they always will until they learn to destroy the scheme that originated in the desire of British barons to get something for nothing. No aristocratic government ever placed taxes upon the value of land so long as it could raise revenue from any other source. The tax upon the products or processes of industry is the aristocratic tax. The tax upon the legal privilege of holding land is the democratic tax.

Our social structure, as expressed in police power, property in products, and the legal institution property in land, is democratic. Of this structure our people are properly both proud and tenacious, but our revenue system in three-quarters of its entirety is aristocratic, and it is the antagonism between our democratic social structure and our aristocratic revenue system that is causing our industrial troubles. (John Z. White, lecturer.)

All business must be carried on upon real estate and is therefore dependent upon real estate. It is from real estate that we derive our daily bread and the raiment wherewith we are clothed. Conversely, it is from business that real estate derives its value. * * * Therefore the true "friend of real estate" is he who would most foster business.

It is a pennywise policy for a landowner to object to the repeal of a tax which interferes with business for fear lest the repeal should increase taxes on his land. No tax upon real estate could possibly be so injurious to the landowner as a tax which hampers commercial activity and enterprise. (Report of Maryland Tax Revision Commission, 1928.)

What is the microbe that continually ravages industry of every kind? It is the microbe of unearned increment, of the value added to land by community growth and appropriated by individuals. The addition of value is a natural thing. * * * But that use value * * * belongs to those who create it. Even if there are still those who do not and will not agree to that theory, which seems to be the most simple form of economic justice, it remains to be pointed out that the appropriation of that unearned increment by the individual landowner constitutes a disease that is continually attacking all forms of organized industry. It is an enemy which is fatal to any wage or labor stability. It is wholly opposed to the point of view of the intelligent manufacturer. * * *

The problem before the world is to change this system. It lies at the bottom of most of the social and economic problems with which men are continually wrestling. (Charles Harris Whitaker, formerly editor Journal American Institute of Architects.)

The most interesting aspect of our system is that we reduce the value of the land by taxing all the "water" out of it. The result is that the land is available at a decent price. When a man puts up a factory on land he has bought we do not increase his taxation at all. He pays exactly the same taxes on land carrying a beautiful building as if the land were vacant. In other words, we make it pay for a man to put his land to its best use and a losing game to hold his land out of use or to speculate on it. This has a most important effect on manufacturing or business. (Alderman J. R. Firth, Sydney, New South Wales.)

The way in which land values go into the pockets of the few instead of in relief for the people who create those values, is an obvious drag on industry, because land is the primary raw material of all industry, and industry has to pay heavily to the monopolists who own it.

The simplest way of remedy is by a judicious taxation of the values of land, thereby bringing back to the community the values which they create and lessening the difficulties of purchase. Mr. Snowden may be inclined to look to this source as a means of new revenue. We are more interested in it as a means of reducing the burdens on industry, making land more readily obtainable, and making employment easier to give and to secure. Every other tax is a tax on production. A tax on land values is a tax to stimulate production. (Editorial in the Daily Express and Star.)

The principle of taxing land values is so sound and just that it can not be long before it becomes an active part of the law of the land. * * * On the question of principle, both the Liberal and Labor Parties stand committed to the taxing or rating of land values.

Every other sources has apparently been explored, but no Chancellor of the Exchequer, least of all Mr. Snowden, should be in any difficulty while land values remain untapped. (Editorial, Eastern Evening News.)

Under the present system the tendency of monopoly is to absorb a large and ever larger share of the grand total produced, and this is the real explanation of the high cost of living. It is the delegation of the sovereign powers of government to the base uses of the private-tax gatherer. It is the negation of equal rights, the flagrant denial of justice, and because it takes its toll the working people can not see the impersonal, invisible, institutional, and automatic thief, which by intangible means absorbs their hard-earned dollars. * * * The remedy for this galaxy of evils is simple: It consists of absolutely free commerce, free production, the abolition of tariffs, and the utter extinction of taxes upon industry, and in place of these legalized exactions, to simply use the social machinery of taxation for collecting the socially created value of land, placing it in the social treasury, and using it for social purposes. (Henry H. Hardinage, lecturer.)

A revolutionized society is possible that avoids socialism on the one hand and communistic syndicalism on the other. It can be brought about by few changes and by a very few laws. It involves no regimentation of society and little interference with personal liberty. Rather it protests against such interference as it does against the enlargement of governmental powers. * * * They would shift the burden of taxes from production onto privilege; they would end the burden of overhead from profits and ground rent by the destruction of the privileges which make them possible.

They would usher in freedom and equality of opportunity. They would change politics and education. They would strike at the feudal control of society and end the conditions that make for decay. Most important of all they would reestablish our traditions of freedom and redistribute the wealth of the world to those who produce it. (Frederic C. Howe, Ph. D., LL. D., formerly Commissioner of Immigration.)

The taxation of land values rather than incomes, commodities, and capital is not communistic, as a part of our present tax system is. Land-value taxation does not penalize the efficient. It provides no royal road to wealth for the lazy and the thriftless. It does not attempt to reduce all to a common level. It is essentially individualistic.

It leaves to the individual all that he can acquire by labor and saving. It takes for society a value which is in a peculiar sense a social product. But no system of taxing commodities, incomes, and property in general can possibly be so good for the common man, do so much to encourage ownership as against tenancy, make the opportunities of getting a start in life so hopeful as a system of relying chiefly on the rental value of land for the provision of public revenues. (Prof. Harry G. Brown, department of economics, University of Missouri.)

Overcrowding is simply caused because land values are so high that the rents become necessarily high, though the land is not fully made use of for commercial purposes, and the people can not afford to pay these rents. They are thus driven into these hovels and wretched slums from which so many evil consequences arise. On one side you have the population swept up from the country to London; on the other side you have these great land values confronting them there and driving them into the slums. There is no question whatever that this is one of the chief causes of this overcrowding evil. (Lord Loreburn, Lord Chancellor.)

Land is one thing, land value is something else. It is not from private property in land we suffer but from private property in land value. * * * Monopoly of land arises not from our tenure in fee simple but from our stupid tax system.

If we had a correct tax system, there would be no land question. Private ownership of land value shuts the door of opportunity—not private property in land. * * * There is nothing socialistic, anarchistic, or communistic about the land-value tax. It is the one suggested social reform that does not violate the right of private property nor interfere with private production. It recognizes the dual status of man, gives perfect liberty to the individual, and also recognizes the need of social services, and provides the normal and natural revenue for such services. (James R. Brown, lecturer.)

Seldom has there been a more beautiful illustration of the wise yet relentless working of natural law than in the proved impossibility of justly collecting any tax other than upon ground rent.

It shows that nature makes it impossible to execute justly a statute which is in its nature unjust. The propriety of an exclusive tax upon ground rents is established not merely by affirmative proof of its justice but by the demonstration of universal experience that no other form of taxation can be made effective, adequate, just, and equal. (Thomas G. Shearman, author.)

The burden of municipal taxation should be so shifted as to put the weight of land taxation upon the unearned rise in value of the land itself rather than upon the improvements. (Theodore Roosevelt.)

PACKERS' CONSENT DECREE OF 1920

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The legislative clerk read the resolution (S. Res. 275), submitted by Mr. BLACK May 23 instant, as follows:

Whereas Armour & Co. and Swift & Co. are making efforts to destroy the packers' consent decree of 1920, which on two occasions has been sustained by the Supreme Court of the United States as valid and enforceable; and

Whereas Congress is interested in any effort to nullify this decree because of amendments made by Congress in the packers' and stockyards' legislation of 1921, due to the existence of the decree; and

Whereas Congress believes necessary steps should be taken to bring about the enforcement of this decree in the interest of the people of America: Therefore be it

*Resolved*, That the Attorney General of the United States is requested to report to the Senate concerning:

1. The extent to which the decree has been enforced since March 19, 1928, when it was sustained by the Supreme Court of the United States;

2. The present efforts of the meat packers to bring about modification of the decree; and

3. The attitude of the Department of Justice with respect to the petitions and the amended petitions of Armour & Co. and Swift & Co., and the extent to which the Attorney General is opposing and will oppose the efforts of the meat packers to destroy the packers' consent decree.

4. Whether the Department of Justice is engaging and will engage in a vigorous opposition to the modification of said decree, and whether the Department of Justice is in charge of the defense of said decree or whether it is now or intends to leave its defense to the efforts of others outside the Department of Justice.

5. Whether or not the Department of Justice takes the attitude that no effort will be made to enforce said decree, while a petition for modification is pending, and whether the said Department of Justice is making efforts to enforce said decree before a judicial ruling is made on said petition for modification.

6. Whether or not the Department of Justice takes the position that the fight over the modification of the packers' consent decree shall be conducted by the packers involved and the Wholesale Grocers' Association, without active and vigorous control of the case by the Department of Justice.

7. Whether the Department of Justice takes the attitude that the packers' consent decree should be fully maintained and enforced as originally rendered, or whether it should be modified, and if the department believes the decree should be modified, how and in what manner, and to what extent.

The VICE PRESIDENT. The question is on agreeing to the resolution.

Mr. McNARY. Mr. President, on two occasions I have discussed this matter on the floor of the Senate with the Senator from Alabama [Mr. BLACK]. I think it was on Friday that I had read at the desk a report or opinion from the Attorney General. Are not the contents of that document sufficient to satisfy the demands of the Senator from Alabama?

Mr. BLACK. Mr. President, the letter the Senator from Oregon presented a few days ago does not satisfy me. I will state that the Attorney General has filed a new answer since the letter was sent to the Senator's committee. In his original answer he asked for a dismissal of the case; in his present answer he does not ask for a dismissal of the case, which raises an entirely different proposition, and leaves, as I understand, that proposition to be fought out by the grocers' association. My resolution calls for his attitude with reference to fighting both propositions, not only on the production of evidence when it is introduced but as to his attitude with reference to the dismissal of the pending petition for modification. The resolution asks for important information, and I should like to have it adopted.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

PROPOSED AMENDMENT OF UNITED STATES CODE

The VICE PRESIDENT. The Chair lays before the Senate a House concurrent resolution, which will be read.

The resolution (H. Con. Res. 33) was read, as follows:

*Resolved by the House of Representatives (the Senate concurring)*, That the President be requested to return to the House of Representatives the bill (H. R. 185) entitled "An act to amend section 180, title 28, United States Code, as amended."

Mr. WATSON. I ask unanimous consent that the resolution be considered at this time, and I hope the Senate will concur in it.

There being no objection, the Senate proceeded to consider the resolution.

The VICE PRESIDENT. The question is on agreeing to the resolution.

The resolution was agreed to.

RETIREMENT OF CIVIL-SERVICE EMPLOYEES

The VICE PRESIDENT. Morning business is closed.

Mr. DALE. Mr. President, I ask unanimous consent for the immediate consideration of the conference report on Senate bill 15, being the so-called retirement bill.

The VICE PRESIDENT. Is there objection? The Chair hears none, and lays before the Senate the conference report, which will be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 15) to amend the act entitled "An act to amend the act entitled 'An act for the retirement of employees in the classified civil service, and for other purposes,' approved May 22, 1920, and acts in amendment thereof," approved July 3, 1926, as amended, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with the following amendments:

1. In section 1, on page 1, in the last line of the engrossed copy of the amendment, after the word "clerks," insert the following: "employees of the Indian Service at large, excepting clerks."

2. In section 1, on page 2, in line 3, after the words "navy yards," strike out the comma and insert "including leading men and quartermen but excluding master mechanics and foremen."

3. In section 2, on page 4, in line 21, after the word "years," strike out the period, insert a comma, and the following: "except that where the head of the department or establishment certifies, and the Civil Service Commission agrees, that by reason of expert knowledge and special qualifications the continuance of the employee would be advantageous to the public service, further extensions of two years may be granted."

4. In section 3, on page 6, in line 23, after the figures "1924," strike out the comma and insert "and amendments thereof."

5. In section 4, on page 9, in line 9, after the word "exceed," insert "three-fourths of."

6. In section 4, on page 9, in line 14, after the word "hereof," insert the following: "together with interest at 4 per cent per annum compounded on June 30 of each year."

7. In section 5, on page 10, in line 21, after the word "offices," insert a comma and the following: "or the legislative branch."

8. In section 5, on page 11, in line 13, after the word "excluded," insert the following: "except such leaves of absence granted employees while receiving benefits under the United States employees' compensation act."

9. In section 6, on page 12, in line 14, after the word "thereafter," strike out the period, insert a colon, and add the following: "*Provided*, That any employee who heretofore has failed to file an application for retirement within six months after separation from the service may file such application within three months after the effective date of this act."

10. In section 6, on page 14, in line 1, after the word "hereof," insert the following: "together with interest at 4 per cent per annum compounded on June 30 of each year."

11. In section 9, on page 18, in line 4, after the word "service," insert the following: "All employees who may hereafter be brought within the purview of this act may elect to make such deposits in installments during the continuance of their service in such amounts and under such conditions as may be determined in each instance by the Commissioner of Pensions."

12. In section 12, on page 20, in line 14, after the word "the" where it occurs the first time, strike out "Secretary of the Interior, after consultation with the heads of the executive departments and with the approval of the President," and insert in lieu thereof "Civil Service Commission."

13. In section 12, on page 20, in line 21, after the word "credited," strike out "together with interest at 4 per cent per annum compounded on June 30 of each year."

14. In section 12, on page 20, in line 23, after the word "employee," strike out the semicolon, insert a comma, and the following: "To be maintained by the department or office by which he is employed."

15. In section 12, on page 21, in line 4, after the word "credited," strike out the comma and the remainder of the paragraph and insert in lieu thereof "to such individual account."

16. In section 12, on page 21, in line 12, after the word "employee," strike out the colon and insert "together with interest at 4 per cent per annum compounded on June 30 of each year."

17. In section 12, on pages 21 and 22, strike out the paragraph designated (c) and in the following paragraphs strike out the letters (d), (e), (f), and (g), and insert in lieu thereof the letters (c), (d), (e), and (f), respectively.

18. In section 19, on page 27, strike out the last line and insert in lieu thereof "July 1930."

And the House agree to the same.

PORTER H. DALE,
JAMES COUZENS,
KENNETH MCKELLAR, (with statement),
*Managers on the part of the Senate.*

FREDERICK R. LEHLBACH,
ADDISON T. SMITH,
*Managers on the part of the House.*

The VICE PRESIDENT. The question is on agreeing to the conference report.

Mr. DALE. Mr. President, during the present session the Senate passed a bill amending the retirement law. Later the House of Representatives passed a substitute bill. Those two bills went to conference, and the result we now have under consideration.

All the major changes from the present law which were made by the Senate bill are retained in the conference bill. Those provisions are, chiefly, as follows:

First, under the present law employees after 15 years of service are eligible for retirement in three groups—generally at 70 years of age; letter carriers, mechanics, and others in like conditions at 65 years of age; railway postal clerks and others engaged in hazardous pursuits at 62 years of age. In the Senate bill, after the employee has met the condition of serving 30 years, these age limits in each group are lowered 2 years, to 68, 63, and 60 years, respectively.

Second, under the present law the maximum annuity is $1,000. The annuity is computed by multiplying the average salary for the last 10 years of service, not to exceed $1,500, by the number of years of service, not to exceed 30, and dividing the product by 45.

The Senate bill raised the minimum annuity from $1,000 to $1,200. It reduced the period of the average salary from 10 to 5 years, increased the maximum salary to which the computation can be carried from $1,500 to $1,600, and lowered the divisor from 45 to 40. The whole result of that complex procedure is to increase the annuities relatively from the lowest to the automatic result in the highest of a raise in the amount of annuity from two-thirds to three-fourths of the average salary for the given period. That is, while the highest annuity is now two-thirds of $1,500, or $1,000, it can then be three-fourths of $1,600 or $1,200. Those two changes—lowered age limits and raised annuities—are retained in the conference bill by specific provisions.

The major provisions of the House bill as retained in the conference bill are as follows:

The service period after which an employee may be retired for disability is lowered from 15 years, as at present, to 5 years.

A basic annuity is provided by the simplest kind of method. It consists of $30 per year for each year of service, not less than 15 or more than 30, and in that way it fixes a minimum basic annuity of $450 and a maximum basic annuity of $900. That provision, however, is modified by an amendment agreed to in conference that no employee shall receive an annuity of more than three-fourths of the salary on which his annuity is computed, so that in the conference bill the basic annuities range from $450 to $900, excepting in cases where those amounts must be reduced to meet the three-fourths limit.

There is a provision for annuity additional to the basic annuity, which may be called the insurance annuity. To understand that feature of the annuity it is essential to sketch the method by which it is obtained. It is purchased by contributions from the employees. The percentage in contributions remain the same as under the present law; namely, 3½ per cent of the salary. From the contribution of 3½ per cent is taken $1 a month, which is applied to the cost of the basic annuity of from $450 to $900, and all the remainder of the 3½ per cent contribution, with interest at 4 per cent compounded, is applied to the purchase of the so-called insurance annuity in an amount as found by the board of actuaries from tables of annuity values.

Mr. MCKELLAR. Mr. President——

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

Mr. DALE. I yield.

Mr. MCKELLAR. Will the Senator tell us how much more the bill known as the Lehlbach bill will cost the Government than the Dale bill?

Mr. DALE. Mr. President, I am coming to that very shortly in what I have to say.

For instance, if the 3½ per cent were paid on a salary of $2,000, the payment would be $70, of which $12 would apply to the cost of the basic annuity and $58, with 4 per cent interest, to the purchase of additional annuity. It is this latter provision which gives the higher salaried employee a larger annuity, because the greater the salary on which the 3½ per cent is paid the greater is the amount of the annuity which it purchases.

Toward the cost of this latter or insurance feature of the annuity the Government pays nothing, except, of course, interest at 4 per cent, for which it has the use of the money. Therefore, that part of the annuity is of no direct financial interest to the Government, because, no matter how high it may run, it will all be paid by contributions from the employees. It is the basic annuity only which puts the Government to expense; and in that way the insurance part of the annuity is a cost to the Government, because the basic annuity is made to cost more by the diversion of so large a portion of the 3½ per cent contribution to the insurance provision.

The total expense of the basic annuity is borne by the Government, in which it is relieved in part by income from two sources; first, the dollar a month contributed by each employee, which is easily estimated, being twelve times as many dollars as there are employees, so that if there are somewhat in excess of 400,000 employees, that contribution would be in round numbers $5,000,000.

There is a forfeiture of a dollar a month in cases where the employee resigns or is removed for misconduct before he is eligible for retirement. In that case all that stands to his credit with which to buy insurance annuity is returned, but the dollar a month is forfeited. The forfeiture of a dollar a month would total, according to estimates which I will not take the time to review, about $2,000,000.

There is provided also an option which may be exercised by the employee at retirement under which he may receive a larger annuity by waiving all rights by which a balance to his credit would, in the regular way, be payable to his heirs. It is estimated, however, that that forfeiture will about offset the additional annuities paid employees living to more than use up their annuity. I doubt that, but that is not considered as an income.

Respecting the refunds to heirs of employees who do not live long enough after retirement to use up the contributions and interest to their credit, a material change which adds greatly to the cost to the Government is made in the bill under consideration.

To illustrate: Under the present law, if an employee, when retired, had to his credit in the retirement fund $3,500 and his annuity were $1,000 a year, all the $1,000 would be deducted from his credit balance each year, so that were he to live approximately three and a half years all his credit balance would be consumed, and there would be nothing left to his heirs. Under this bill, with a $900 basic annuity provided by the Government, there would be deducted from his credit balance only the insurance part of the annuity, or perhaps $300 a year; so that were he to live only the three and one-half years which under the present law would consume his credit balance, he would under this bill leave a balance, including interest, to be paid his widow or other of his heirs, somewhat in excess of $2,800.

This hastily sketches the major changes in the present law proposed by the pending bill.

Now, as to the cost to the Government:

It is estimated that the cost to the Government of its retirement system under the present law will average over the next 27 years annually $20,600,000.

The major changes considerably increase this cost to the Government. The retirement age is lowered two years in each group. The maximum annuity is increased $200. The total contributions of the employees above a dollar a month are applied to the purchase of additional annuity. From the credit balance, only the amount of the additional annuity is deducted. Increased basic annuities are immediately provided the lower-

paid groups, and greatly increased annuities are ultimately provided the higher-salaried groups.

All these, together with minor changes, will double the cost, or bring it to at least $40,000,000 a year; but from that amount there should be deducted the contributions of a dollar a month, estimated at $5,000,000, and the forfeitures of a dollar a month, estimated at $2,000,000, or a total of $7,000,000. That makes the cost to the Government of the pending bill over present law an average of $13,000,000 a year, or a total annual cost to the Government of approximately $33,000,000.

Now, respecting the amendments made by the conferees, those of major consequence are as follows:

The present law, after August 30 of this year, prohibits retention in the service of an employee for more than four years beyond retirement age. An amendment removes that limit respecting an employee certified by the head of a department as possessing expert knowledge or other special qualifications, and approved by the Civil Service Commission. Another amendment limits the annuity to three-fourths of the salary. Another amendment allows, in computing length of service, the counting of time an employee is on leave of absence because of disability under the employees' compensation act.

The present law prohibits the consideration of certain claims for disability retirement unless made while the employee is in the service, or within six months thereafter. An amendment permits any employee who has failed to file such a claim to file it within three months after the passage of the pending bill.

All employees not now, but who are brought within the scope of the retirement act are required to pay into the fund an amount equal to the percentage contributions since the inception of the retirement system in 1920—that is, the amount they would have paid in had they been within the act since 1920. By amendment, those contributions may be made in installments under conditions determined by the Commissioner of Pensions.

Mr. President, for years in the Senate, and before that in the House, I have been associated with others in the labor and the privilege of establishing and developing a retirement system. Nothing that has come to me while here is of more interest and pleasure than my experience with civil-service matters, especially with retirement legislation. The friendships and the memories it has brought are and shall be filled with cheer.

We have a retirement system of which an able member of the Bureau of Efficiency conceded that the statement of a Member of the House during the hearings was correctly made when he said:

> The actuaries said if the Government did not contribute anything for the first eight years, that at the end of that time there would not be anything in the fund. The Government did not contribute anything for the first eight years, and yet the fund continued to grow.

In that time it exceeded $100,000,000.

A competent supervisor of the Pension Office field service said in the hearings:

> With the Government contribution, the fund in 10 years will be $500,000,000. In 20 years that will be a billion dollars.

We who have worked so long for this legislation, especially my distinguished friend from Tennessee [Mr. McKellar], hoped and believed that the system could be made to pay a liberal retirement and also become self-supporting. We had to use much argument in the development of the system. We had to fight many battles and to rise from repeated reverses; but the system came to its sound financial condition and its high state of development, and with small comparative aid from the Government.

The retirement system has come to be like an old friend to me. He has been faithful in all we have required of him. Now, urged by some administration leaders, we ask him to change his methods, to assume new obligations, and to perform old duties in a new way; and we agree to pay the bill.

I trust the change will be for the good of both the Government and the employees. Therefore, under the influence that leads to these reflections, and under the urge of the necessities of disabled and aged employees, I offer you the pending measure in the spirit of submissive recommendation that it do pass.

The PRESIDING OFFICER (Mr. Fess in the chair). The question is on agreeing to the conference report.

The report was agreed to.

DEFINITION OF OLEOMARGARINE

Mr. McNARY. Mr. President, I understand that the morning business has been concluded.

The PRESIDING OFFICER. It has been.

Mr. McNARY. On Thursday, while proceeding under unanimous consent to consider unobjected bills, we completed the calendar. On Friday, under Rule VIII, we also completed the calendar. I think it would be well at this time to resume the consideration of the unfinished business.

I therefore ask unanimous consent that we omit the calendar to-day under Rule VIII and resume the consideration of the unfinished business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Oregon?

Mr. HEFLIN. Mr. President, I shall have to object. The rivers and harbors bill is on the calendar. It is a very important measure; and I think we ought to take up that bill and consider it at the earliest possible moment.

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

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Oregon?

Mr. HEFLIN. I yield to the Senator.

Mr. McNARY. We have only an hour and 18 minutes until the unfinished business will properly come before the Senate. The Senator from Alabama knows full well that it would require two or three days to dispose of the rivers and harbors bill.

Mr. HEFLIN. I should like to debate the oleomargarine bill longer than that. I am opposed to the passage of that bill at all as it is written now.

The PRESIDING OFFICER. Does the Senator object?

Mr. LA FOLLETTE. What is the request, Mr. President?

The PRESIDING OFFICER. The request is to lay the unfinished business before the Senate. This being Calendar Monday, it requires unanimous consent to do so. Does the Senator object?

Mr. HEFLIN. Mr. President, I give notice that when the oleomargarine bill is out of the way I shall move to take up the rivers and harbors bill.

The PRESIDING OFFICER. The Chair hears no objection.

The Senate resumed the consideration of the bill (H. R. 6) to amend the definition of oleomargarine contained in the act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886, as amended.

Mr. LA FOLLETTE and Mr. HEFLIN suggested 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 | Frazier | Keyes | Shortridge |
| Ashurst | George | La Follette | Simmons |
| Baird | Gillett | McKellar | Smoot |
| Barkley | Glass | McMaster | Steck |
| Bingham | Glenn | McNary | Steiwer |
| Black | Goff | Metcalf | Stephens |
| Blaine | Goldsborough | Norbeck | Sullivan |
| Blease | Gould | Norris | Swanson |
| Borah | Greene | Nye | Thomas, Idaho |
| Bratton | Hale | Oddie | Thomas, Okla. |
| Brock | Harris | Overman | Townsend |
| Broussard | Harrison | Patterson | Trammell |
| Capper | Hatfield | Phipps | Tydings |
| Caraway | Hawes | Pine | Vandenberg |
| Connally | Hayden | Ransdell | Wagner |
| Copeland | Hebert | Reed | Walcott |
| Couzens | Heflin | Robinson, Ark. | Walsh, Mass. |
| Cutting | Howell | Robinson, Ind. | Walsh, Mont. |
| Dale | Johnson | Robsion, Ky. | Waterman |
| Deneen | Jones | Schall | Watson |
| Dill | Kean | Sheppard | Wheeler |
| Fess | Kendrick | Shipstead | |

The PRESIDING OFFICER. Eighty-seven Senators having answered to their names, a quorum is present. The bill is open to amendment.

Mr. HEFLIN. Mr. President, what became of the amendment offered by the junior Senator from Texas [Mr. Connally]?

The PRESIDING OFFICER. That has been agreed to.

Mr. HEFLIN. Did he not have another amendment pending at the time we adjourned?

The PRESIDING OFFICER. The Chair is informed that there is no amendment pending.

Mr. HEFLIN. Mr. President, my understanding was that the junior Senator from Texas had offered another amendment, or stated that he would offer one. I am trying to get in touch with the Senator now to see what his amendment was.

A very able argument against a tax on oleomargarine was made to the Senate by the senior Senator from North Carolina [Mr. Simmons] on March 31, 1902. He was not undertaking to permit oleomargarine to be sold as butter, but he was seeking to prevent a tax from being imposed upon oleomargarine when it was sold as oleomargarine.

There is already a tax of 10 cents a pound upon colored oleomargarine, and a tax on uncolored oleomargarine of one-fourth of a cent a pound. I submit to the Senate that both of those taxes are unjust. Why should there be a tax upon a wholesome

product, a food which people eat? They have been consuming this particular kind of food for a number of years.

I will go as far as any Senator in this body in protecting butter as butter in the market place and in preventing the sale of oleomargarine as butter, but I submit that when it is required that oleomargarine be done up in packages and stamped as oleomargarine there is no just cause or good excuse for imposing a tax on it. Certainly the consumer knows what he is getting when he buys it. It is not sold as butter; it is sold as oleomargarine.

Some Senators are not satisfied with the burdens they have already imposed upon this wholesome food product. They require now that a dealer in it shall take out a license in order to deal in it at all. Now Senators come with the proposition of taxing every substance made out of cottonseed oil and other vegetable oils which are used upon the tables of the consumers of the country. It is wrong. It is unfair. It is unjust.

The Senator from Florida [Mr. TRAMMELL] was right in his argument on Friday when he said that this measure will result in making the packers a perfect monopoly. They will control this business absolutely. It is not going to benefit any consumer; it is going to impose a burden upon the consumers of things other than butter.

I should think that if the consumers of this country want to eat oleomargarine they have a right to eat it. If they want to eat vegetable oil in any form, they have a right to eat it; and those who are seeking to protect butter by legislation of this kind are doing an unfair thing and an unjust thing to a vast mass of people who have been eating these other substances for years and can buy them more cheaply. I submit that it is imposing a burden upon a class of poor people in the country who are not able frequently to pay the high prices which obtain for butter.

Mr. President, I said on Friday some other things in opposition to this measure, and I hope it will not pass. It should not be passed. It imposes an unjust burden upon millions of American people.

I want to say again, before I sit down, that I will go as far as any Senator in this body to protect butter as butter in its own sphere in the market place. I would not permit oleomargarine or anything else to be sold as butter, and when I say that I think I have done all that could be expected of me and all that is fair and just in the matter.

I submit that there is a vast army of American people who use these other oils and substances made out of them, as substitutes for butter, if you please, and it is their business to do that as long as we have an American Republic.

Mr. BLACK. Mr. President, I send to the desk a letter with reference to the pending bill which was sent to me last February from the Standard Provision Co., of Birmingham, Ala., and I ask that it be read by the clerk.

The PRESIDING OFFICER. Without objection, the clerk will read.

The Chief Clerk read the letter, as follows:

BIRMINGHAM, ALA., *February 12, 1930.*

Hon. HUGO L. BLACK,
*United States Senator from Alabama, Washington, D. C.*

DEAR SIR: We take occasion to call your attention to H. R. 6. known as the Haugen oleomargarine bill, which has passed the House, and, if not now, soon will be before the Senate for consideration. This is a bill to amend the oleomargarine act of 1886 as amended in 1902 in such a way that it will make taxable as oleomargarine a vast number of products not included under the old oleomargarine laws which have for their constituent parts vegetable and fish oils, particularly products made from cottonseed oil and peanut oil.

In the long course of the existence of the oloemargarine law it has only served to repress the manufacture of and the development of vegetable oils as food products. The reason underlying all this is that the wording of the oleomargarine amendment of 1902 was such that oleomargarine made yellow by natural ingredients was taxable at one-quarter cent per pound, while if it was artificially colored it was taxable at 10 cents per pound.

The large packing houses in Chicago soon discovered that they could, by using the deep yellow fats of old cattle, make an oleomargarine which was the same color as butter but which, not being artificially colored, would carry the lower rate of tax and that they could then, by monopolizing this oil, make an additional profit of 9¾ cents per pound on their goods. They control all oleo oils.

In recent years the refinement of vegetable oils has reached such a stage that it makes an almost perfect substitute for oleomargarine, as far as cooking is concerned. This is manufactured and placed on the market under various trade names plainly labeled vegetable-oil products and for cooking and baking purposes, and has been declared by the revenue department and the courts not to be taxable as oleomargarine. This for the first time has enabled vegetable-oil products to compete with the naturally yellow oleomargarine of the packers.

This bill, while presented in the guise of a taxation measure and with the backing of dairy institutions, is really a packer controlled bill for the sole purpose of preventing competition with their product. It is a repressive measure which adds 50 per cent to the cost of a food product manufactured in the United States. We trust that when this bill comes before you that you will give it your serious consideration and endeavor to have it referred to a proper committee of the Senate for study and hearings.

Very respectfully yours,

STANDARD PROVISION CO.

Mr. HEFLIN. Mr. President, I ask now to have the clerk read certain resolutions passed by the superintendents of the oil mills in North and South Carolina. The resolutions appear in the body of an able speech made by the senior Senator from North Carolina [Mr. SIMMONS] in the CONGRESSIONAL RECORD which I send to the desk.

The PRESIDING OFFICER. Without objection, the clerk will read, as requested.

The Chief Clerk read as follows:

[From the CONGRESSIONAL RECORD, Monday, March 31, 1902, page 3456]

SUPERINTENDENTS OF OIL MILLS IN NORTH AND SOUTH CAROLINA

Resolutions against oleomargarine tax offered at meeting of cotton-oil mill superintendents:

"CHARLESTON, S. C., *July 6.*

"Cotton-oil superintendents from South Carolina and North Carolina met yesterday at the Calhoun Hotel for the purpose of organizing the cotton-oil mill superintendents' association.

"After the constitution and by-laws were read and adopted, the following resolutions were offered by A. A. Haynes:

"'*Resolved,* That this association, representing millions of dollars of invested capital in the South, strongly protests against national class legislation which aims directly at the destruction of competition in the manufacture and sale of wholesome and healthful articles of food.

"'*Resolved,* That we protest strenuously against the passage by Congress of the Grout oleomargarine bill, which proposes to tax oleomargarine 10 cents per pound, and thus to drive it from the market.

"'*Resolved,* That this association implores Congress not to destroy an industry which now uses nearly 10,000,000 pounds of the best grade of cottonseed oil annually, and thus kill that quantity of our most profitable output.

"'*Resolved,* That we urge the Legislatures of South Carolina and of other Southern States to remove from their statute books the antioleomargarine legislation thereon, because such acts are only in the interest of the renovated and process butter factories of the North and Northwest, and against the hog fats, beef fats, and cottonseed oil products grown on our southern farms.

"'*Resolved,* That a copy of these resolutions be sent to the National Provisioner, of New York and Chicago, the indomitable champion of the cotton-oil interests, for publication, and that the members of the association proceed to secure, if possible, the repeal of the obnoxious State laws above referred to.

"'*Resolved,* That this association will do what it can to cause the defeat of the Grout antioleomargarine bill in Congress during the coming session.'"

Mr. HEFLIN. Mr. President, how to exercise the taxing power without imposing unjust burdens upon any one class of people is one of the most serious problems before the country to-day. All through the ages trouble has been caused by the misuse and abuse of the taxing power. It is indeed a great power and a very useful power when it is confined to just purposes; but it is one of the most dangerous powers that can be lodged in human government. It has been exercised in this instance by putting a tax upon oleomargarine to handicap and strike down an industry which has a rightful and useful place in American life.

The letter which my colleague sent to the desk and had read presents a very interesting problem and shows that the fats from beef cattle, fats which are themselves yellow, are made so because of the nature of the feed given to the cattle. When those fats, yellow in the outset, are used in the making of oleomargarine and no artificial coloring is used, but a natural color is used, it takes the oleomargarine out of the class of product taxed one-fourth of a cent a pound and raises it into the class where it is taxed 10 cents a pound. Any fair-minded Senator is bound to see that that is ridiculous, unfair, and unjust. Why should there be a tax on oleomargarine at all? The resolution which I sent to the clerk's desk and had read a moment ago, found in the body of the able speech of the distinguished senior Senator from North Carolina [Mr. SIMMONS], told us of 10,000,000 pounds of cottonseed oil being used to make oleomargarine. An effort is being made to prevent those who manu-

facture oleomargarine from having it resemble butter and to require them to make it white, and then a tax of a quarter of a cent a pound is to be laid upon it. But if it is sold in the yellow form it is to be held that it has been colored to make it yellow when otherwise it would be white. I submit that when the yellow fats are used in making oleomargarine there has been no artificial coloring used, but it is the natural coloring of the fat, and yet it is proposed to fix a tax of 10 cents a pound upon it because it resembles butter.

The Senator from Texas [Mr. CONNALLY] presented a strong point here Friday. He said the beet-sugar people make white sugar and the cane-sugar people make white sugar. Either one or the other has just as much right to ask Congress to employ the taxing power to prevent the other from making sugar of the same color as have those who are asking Congress to use the taxing power as proposed in the instance now before us. The cane-sugar people have just as much right to ask us to employ the taxing power to require the beet-sugar people to make their sugar brown so it will not be mistaken for the white cane sugar.

Mr. President, there is no telling where this proposal will go if it is permitted to run its course. It is proposed to employ the taxing power for everything. Because a man has a competitor in his business he wants to employ the taxing power to strike down his competitor, to handicap and hinder his competitor in producing and disposing of his material in the market place. That is a wrong principle. Legislative bodies ought not to be employed for any such unjust and unfair purpose.

A little while ago I showed by a resolution adopted by the Congress that for nearly 30 years 10,000,000 pounds of cottonseed oil were being used to make oleomargarine. Here are the statistics from the Government as of May 23, 1930, just handed to me by the Senator from Maryland [Mr. GOLDSBOROUGH], showing that 338,000,000 pounds is the total amount of uncolored oleomargarine produced in the United States per annum, and that there is a tax upon it of one-fourth of a cent a pound; that 17,856,000 pounds is the total amount of colored oleomargarine produced in the United States per annum; that 356,000,000 pounds is the total amount of oleomargarine of all kinds produced in the United States per annum. These figures are furnished by Mr. Baldwin, Assistant Commissioner of Internal Revenue in the Treasury Department.

Mr. President, I submit that this great and growing industry ought not to be further handicapped by misuse and abuse of the taxing power. Let us make it clear and distinct so that all people may know that butter being sold as butter is butter, and that oleomargarine being sold for foodstuff is oleomargarine. When it is branded as oleomargarine and we require that it be sold as oleomargarine, we have no business handicapping that product by use of the taxing power to impose a penalty upon the person who buys and consumes it. It may suit his purse and his means to buy this product. He may like it better than certain other products. Then certainly it is not the business of Congress to use the taxing power to drive them away from one product over to another product.

Mr. President, it is a gross misuse and abuse of the taxing power, and the bill ought to be defeated.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BLACK. Mr. President, is it in order to move a reconsideration of the amendment which was offered the other day by the Senator from Wisconsin [Mr. BLAINE]?

The PRESIDING OFFICER. It depends upon which side of the question the Senator voted.

Mr. BLACK. There was no roll call.

The PRESIDING OFFICER. Then it is in order.

Mr. BLACK. I move to reconsider the vote by which the amendment offered by the Senator from Wisconsin [Mr. BLAINE] was rejected, in which he proposed to strike out, on page 2, line 10, after the figure "(1)" the word "made," and at the beginning of line 11 the words "imitation or."

Mr. HEFLIN. Mr. President, I would like to have my colleague explain what it would mean with those words out.

Mr. BLACK. I will state the reason why I make the proposal. Those who heard the letter read a few moments ago, which was a very clear explanation——

The PRESIDING OFFICER. May the Chair interrupt the Senator? The Chair is informed that the amendment to which he refers was not agreed to. All the Senator needs to do is to reoffer the amendment. It would have to be reconsidered if the amendment had been agreed to.

Mr. BLACK. Then I will offer the amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 2, lines 10 and 11, it is proposed to strike out the words "made in imitation or" and to insert the word "in."

Mr. ROBINSON of Arkansas. May I ask the Senator how the language will read with his amendment incorporated?

Mr. BLACK. Instead of reading "made in imitation or semblance of butter," it will read "in semblance of butter." I will explain now the effect that the amendment, should it be adopted, will have. Those who heard this letter read will recall the statement:

> The large packing houses in Chicago soon discovered that they could, by using the deep yellow fats of old cattle, make an oleomargarine which was the same color as butter, but which, not being artificially colored, would carry the lower rate of tax, and that they could then, by monopolizing this oil, make an additional profit of 9¾ cents per pound on their goods. They control all oleo oils.

With the law as it is to-day, and with the law as it will be after this bill shall have passed, the packers will continue to have a monopoly in this particular kind of a substitute for butter, and they will continue to pay a tax of only one-fourth of a cent a pound, instead of 10 cents a pound, as is required to be paid by the producers of other substitutes for butter of which the packers do not now have a monopoly.

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

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Arkansas?

Mr. BLACK. I yield to the Senator.

Mr. ROBINSON of Arkansas. I am compelled to retire from the Chamber for a few minutes, and I merely wish to say that I am impressed with the statement which the Senator from Alabama has made, and believe that the amendment he has offered should be agreed to. It seems to me, as suggested by the senior Senator from Alabama [Mr. HEFLIN], that this bill proposes a questionable exercise of the taxing power, and that the Congress ought to look into the measure much more carefully than it has done before it shall pass it.

Mr. BLACK. I will say to the Senator that, even if the amendment I have offered shall be adopted, it is my intention to vote against the bill.

Mr. ROBINSON of Arkansas. I shall also do so.

Mr. BLACK. If the law is to be extended I think it is only fair to the vegetable-oil producers and to other producers who have to pay a 10-cent tax, that the packers themselves should be required to pay the same tax.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield further?

Mr. BLACK. I yield to the Senator from Arkansas.

Mr. ROBINSON of Arkansas. I agree with the Senator from Alabama that the amendment which he has proposed, if adopted, would probably improve the bill, but it would not relieve it of all objectionable features. I shall, therefore, vote against the passage of the bill.

Mr. BLACK. The idea I have in mind is, if the bill is to become a law, that it should be written in such a way that the packers themselves, who have mainly championed an extension of the oleomargarine act, may have to pay the same tax that is paid by the other producers. That is what the amendment would do, and, in my judgment, it ought to be adopted.

Mr. McKELLAR. Mr. President——

Mr. BLACK. I yield to the Senator from Tennessee.

Mr. McKELLAR. Before the Senator from Alabama sits down, will he state just what his amendment proposes? I have been out of the Chamber for a moment.

Mr. BLACK. The amendment proposes to change the wording of the phrase "made in imitation or semblance of butter," so that it will read "in semblance of butter." The Senator will note that if the bill shall be enacted in its present form the article must be made in semblance of butter, that is manufactured, but the packers, by taking some old yellow fat from certain of their products and coloring their own products, will not be included in the definition. Therefore, they will pay but one-fourth of 1 cent per pound tax, while those who are not so fortunate as are the packers, and who seek to produce a substitute of another kind, will pay 10 cents a pound.

Mr. McKELLAR. How does the Senator from Alabama propose to change the wording of the bill?

Mr. BLACK. I propose to change it so that it will read "in semblance of butter." I call attention to the fact that that will not affect vegetable oils, because vegetable oils are white.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Alabama. The Secretary will state the amendment.

The CHIEF CLERK. On page 2, lines 10 and 11, it is proposed to strike out the words "made in imitation or" and to insert "in," so that it will read:

In semblance of butter.

Mr. VANDENBERG. Mr. President, the Senator from Oregon asked that a quorum be called before the amendment of the Senator from Alabama should be voted upon. If the Senator from Alabama is ready to have a vote taken on the amendment, I desire to make the point of no quorum. Otherwise I shall withhold it.

Mr. BLACK. I am ready for a vote on the amendment.

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

The VICE PRESIDENT. The Secretary will call the roll.

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

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

The VICE PRESIDENT. Eighty-eight Senators have answered to their names. A quorum is present. The question is on agreeing to the amendment proposed by the Senator from Alabama.

Mr. BLACK. Mr. President, since there were only four or five Senators here a few moments ago when I offered this amendment, I want just three minutes to explain what it is, and then I feel sure that the Senate will agree to the amendment. If this amendment is put on the bill it is my judgment, however, that the packers will then be opposed to the bill, because it will make them pay the same tax that they are seeking to put on other people.

Here is a letter which I have, which explains the situation in six lines:

The large packing houses in Chicago soon discovered that they could, by using the deep yellow fats of old cattle, make an oleomargarine which was the same color as butter, but which, not being artificially colored, would carry the lower rate of tax, and that they could then, by monopolizing this oil, make an additional profit of 9¾ cents per pound on their goods. They control all oleo oil.

This amendment would simply provide that on the substitute that the packers sell, instead of paying one-quarter of a cent tax, they will pay 10 cents tax, like the other citizens of this country. It will take away from them the unfair advantage which they now have over everybody else because they are the ones who have the monopoly of this material. While I understand that the packers will then be against this bill, at the same time, unless the Senate wants to continue to give them a monopoly by reason of the fact that they alone are singled out throughout the entire United States to pay a quarter of a cent tax while other people pay 10 cents, the Senate will vote for this amendment.

Mr. NORBECK. Mr. President, just to make the matter more clear, I will state that a very small percentage of the packer product is this colored product. Probably about 5 per cent of the oleomargarine is manufactured from this oleo oil and has the natural color. Incidentally I may state that a very small part of the oleo product is packer product anyway.

The statement has been made here time and again that the packers make the oleomargarine. The fact of the matter is that they make the smaller part of it. I want to make that clear.

As I said on Friday when this identical matter was up, proposed by the Senator from Wisconsin [Mr. BLAINE], at least it can be said in behalf of this yellow product that it is the product of the American farm, as against the oil from tropical islands. Therefore I felt that we should not at this time try to include it; and the amendment was voted down overwhelmingly.

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

Mr. NORBECK. Yes.

Mr. BLACK. It was voted down by those over here largely because they did not understand it.

May I ask the Senator whether the packers are not opposed to including this kind of oleomargarine in this bill?

Mr. NORBECK. I know that the Senator is opposed to the bill and he believes that he will enlist the support of the packers if he can involve them. I do not want to involve the dairy farmers in any more trouble and therefore I do not want to start a fight on the packers to-day.

Mr. BLACK. Let me ask the Senator if the packers have not a representative here, who has been here for the past week, and who is opposed to this particular amendment?

Mr. NORBECK. I am not aware of any such one; but no doubt they would have, because nobody wants to be taxed.

Mr. BLACK. Certainly they would.

Mr. NORBECK. Nobody wants to be taxed—no one at all.

Mr. BLACK. They do not want to be taxed on their own product, but they are perfectly willing that the product of everyone else be taxed.

Mr. NORBECK. No; the Senator wants to tax a product of the American farm and give the benefit to the tropical islands in the matter of these oils, because that is what it amounts to.

Mr. BLACK. The Senator admitted that the packers are against this amendment. Does the Senator claim that the reason why the packers are against it is because they want to help the American farmer?

Mr. NORBECK. The packers have been against all oleomargarine legislation, as I understand. They pay a substantial tax now. I know of no one who wants to pay a tax; but I can not get the logic of the argument that because some other product is inferior, therefore it should be exempt from the regulation of law. Because it is less healthful to the human system, therefore we should not interfere with it. That is the kind of argument that the Senator makes.

Mr. BLACK. The Senator did not understand my question. May I ask it again?

The Senator admitted that the packers are opposed to this amendment. I imagine that in a few minutes some representative from a packer State will be up opposing it. The Senator also stated that this particular product was used for the benefit of the American farmer.

Mr. NORBECK. Oh, the Senator stated nothing of the kind.

Mr. BLACK. Then I misunderstood him. I understood the Senator to say that.

Mr. NORBECK. The Senator was talking while I was explaining. That is why he did not get what I said.

Mr. BLACK. Then the Senator does not claim, as I understand, that the taxation or the freedom from taxation of this particular product will benefit the American farmer?

Mr. NORBECK. The Senator from South Dakota stated that the product on which the Senator from Alabama now proposes to put a tax is a product of the American farm.

Mr. BLACK. All right.

Mr. NORBECK. That is what the Senator stated. It is immaterial to me whether the packers are for or against it. I notice, however, that the Senator wants the packers enlisted in this fight, and he has stated so two or three times.

Mr. BLACK. I can not misunderstand the Senator this time, because he states that this legislation is for the benefit of the American farmer, and he also states that the packers are against it. What I am getting at is, why this remarkable solicitude on the part of the packers to protect the farmer from this iniquitous amendment?

Mr. NORBECK. The Senator evidently feels that if he discriminates in favor of tropical oil it will be helpful to the farmer. I do not agree with that reasoning.

Mr. BLACK. No; I feel that we ought not to discriminate in favor of the big packers, who are now seeking a monopoly on everything that we buy to eat. I feel that they are not entitled to any further discriminations in their favor; and this amendment will include, at 10 cents a pound, the substitutes for butter that they sell as well as the substitutes for butter that others sell.

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

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Illinois?

Mr. BLACK. I do.

Mr. GLENN. I understand that the position of the Senator from Alabama is that because the packers are for this legislation he is against it. Is that right?

Mr. BLACK. No. I do not think the Senator understood that, either.

Mr. GLENN. Yes; I did.

Mr. BLACK. The Senator may have understood that; but if the Senator understood that, I invite him to listen again to what I said. I said I was against the legislation because it discriminates in favor of the packers, and lets them sell their product by paying a quarter of a cent a pound, while others pay 10 cents a pound. I might as well assume that the reason why the Senator rises, evidently to oppose the amendment, is

because he happens to come from the State where the greatest packing industry in the Nation abides.

Mr. GLENN. If the Senator knows anything about the geography of Illinois, he knows that there are 10,000 farmers in Illinois where there is one packer.

Mr. BLACK. I understand that; but I do not believe those 10,000 farmers have heretofore in the history of the Nation shown the same influence in the formulation of legislation that the one packer has.

Mr. GLENN. Is there anything in this legislation which would prevent anyone in the United States, farmer or packer or anyone else, from using this natural product of the farm to color oleomargarine?

Mr. BLACK. The only thing is that the colored product of the packers pays a quarter of a cent a pound, while the colored product of the farmers pays 10 cents a pound.

Mr. GLENN. But this is a product of the farm; is it not? Can not anybody buy this product? Does it not come from livestock that the farmer himself has? Why can not the farmer take it at the same cost as the packer?

Mr. BLACK. Does the Senator think it is fair for the substitutes which are manufactured by the packers to pay a quarter of a cent a pound, while the substitutes manufactured by others have to pay 10 cents a pound?

Mr. GLENN. I think it is fair to allow anyone in the United States to manufacture oleomargarine on the same basis; and I do not think it is fair to say to people, "Because you are packers you have to pay 10 cents, but everybody else will be taxed only half a cent or a quarter of a cent." This product is open to anybody who manufactures oleomargarine. Let them buy it and use it if they want to.

Mr. BLAINE. Mr. President, will the Senator from Alabama yield for just a moment, in order that I may offer a suggestion with respect to the remarks of the Senator from South Dakota?

Mr. BLACK. I yield to the Senator.

Mr. BLAINE. The Senator from South Dakota says that only 5 per cent of the packers' product is made out of animal fats.

Mr. NORBECK. If the Senator from Wisconsin will pardon me, the Senator from Wisconsin did not understand me correctly, as the reporter's notes will show.

Mr. BLAINE. Was it 5 per cent of the oleomargarine production, or 5 per cent——

Mr. NORBECK. I will try to state it again more correctly. In the first place, we are not trying to change the laws affecting oleomargarine. We are just trying to bring this new, inferior product in under the law; but the question came up what per cent of the oleomargarine product was a natural tallow color. I said that it was very small; that the best estimate I could make is that of the total oleomargarine sold, about one-twentieth, or 5 per cent, is the product to which the Senator from Alabama refers.

Mr. BLAINE. Had I finished by statement, I would have stated the Senator's proposition as he has stated it. That 5 per cent is the amount, or practically the amount that has produced the surplus butter of to-day; but that is not the only thing that is important.

When this bill goes through, subjecting vegetable oils to this additional tax, it will be found that the percentage of the packers' production of oleomargarine that is produced out of animal fats into which is put the intestinal fat of milk cows will increase by leaps and bounds. That is what is going to happen.

Now, Mr. President, just one other suggestion.

The Senator from South Dakota says that he much prefers to protect the product of the farm; that is, these animal fats that are used in the production of oleomargarine. Let us analyze just for a moment what that protection means.

The packing companies use all sorts of animal grease, animal fats, good, bad, or indifferent. The bad and the indifferent is renovated. Into those animal fats is compounded the intestinal fat from milk cows—largely old milk cows, for those are the only ones that go to the packing plants. It takes only a small amount of the intestinal fat from milk cows to give a natural color to the animal fat, which is the basis of the oleomargarine.

Mr. President, what is the farmer's status in this? For those cows out of which is taken intestinal fat to give natural color to the packing plant's oleomargarine the farmer receives the handsome price of from 4 to 6 cents a pound. Those old cows go into the packing plants and become canners, and for canners the price scarcely ever exceeds 6 cents a pound. So the packer is taking a small portion of the intestinal fat of those cows that become canners, at a cost of from 4 to 6 cents a pound, and putting it into animal fat such as I have described, and selling that fat at a tremendous increase in price. Where does the farmer come in in getting any benefit out of the intestinal fat of dairy cows at from 4 to 6 cents per pound?

Mr. SWANSON. Mr. President, will the Senator let me ask him a question? As I understand the Senator—and he represents one of the largest dairy States in the Union; Virginia is rapidly improving in that respect—this amendment of his would protect the dairy interest as much as, if not more than, the bill as originally drawn.

Mr. BLAINE. Oh, immeasurably more. I think the bill as drawn is of very doubtful protection to the dairy interests. There will be some protection in it, but the result primarily will be to protect this packers' product about which I have been talking.

Mr. SWANSON. The amendment now offered by the Senator from Wisconsin, which is being resubmitted by the Senator from Alabama, is intended to protect butter of the dairyman and protect the packers as it would others.

Mr. BLAINE. Exactly.

Mr. SWANSON. It is just as necessary to protect them as to enact any of the other phases of the bill?

Mr. BLAINE. In my opinion.

Mr. SWANSON. The Senator thinks that without that in it the bill would be very defective?

Mr. BLAINE. There would be very little protection. There would be some protection, but it would relate largely to vegetable fats which go into shortening, while a little more butter might be used or a little more lard might be used if it were not for the additional classification made by this bill. But it is a small quantity. Practically the only benefit to come to the butter producers of this country is providing for oleomargarine to be defined as in semblance of butter, and that will be the result of the amendment resubmitted by the Senator from Alabama.

This whole fight is largely a fight of the packers against the vegetable-oil producers, and, of course, they have succeeded in bringing to their support a man like Mr. Loomis, of the National Dairy Union, who gets all his pay, practically, from interests which are in no way connected with dairying except to exploit the dairy farmers.

I concede that there would be some protection for the butter producers of this country through this new classification, but without the amendment suggested by the Senator from Alabama the protection would be of very little measure.

I say this, Mr. President, not upon my own judgment but after a careful analysis made by the butter makers of our own State, represented by the secretary of their association. That association has made a study of this proposition for years. We have had a great fight in Wisconsin over all these propositions. Our courts have passed upon them. So we have gone through this fight for over 30 years within our State with respect to legislation, as well as with respect to litigation.

It is true that that same association, probably not with any great enthusiasm, supports the bill without the amendment of the Senator from Alabama, but I submit that in all good faith to the butter producers of this country it ought to be known that the benefits to be derived from the proposed bill without the amendment proposed by the Senator from Alabama would be very small.

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

Mr. BLAINE. I yield, if I have the floor. I had the floor by courtesy of the Senator from Alabama.

Mr. HEBERT. I wanted to ask the Senator from Wisconsin if the effect of the original bill, now pending before the Senate, would not be to remove from competition the manufacturers of the so-called cooking compounds, who are now in competition with the manufacturers of oleomargarine?

Mr. BLAINE. I would say that that statement might be characterized as correct, with some modifications. I think I have stated the modifications in my remarks.

Under this bill the packers are going to have an absolute monopoly of every product that is in semblance of butter, because they are going to come under the smaller rate of taxation, one-fourth of a cent a pound. Thereby the vegetable-oil interests are injured accordingly.

The purpose of this bill is not to protect the American butter producer against the tropical oils at all. The bill would have practically no effect in that regard as drawn, it is true, but if the amendment offered by the Senator from Alabama were adopted all vegetable and animal fats would be included within the terms of the bill. But we all know from our practical experience and knowledge that the only natural coloring to-day that is in common use, that goes into a product in imitation of butter, is the intestinal fat from milch cows, that vegetable oils and fats have no yellow color. They are usually clear or white.

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

Mr. BLAINE. I yield.

Mr. NORBECK. If I understood the Senator correctly, he said that vegetable oil did not have a color. I do not think the

Senator wants to make that broad a statement. For instance, palm oil is very highly colored. It is yellower than yellow paper. It is true that it can not be put in oleomargarine, but it can be put in the cooking compounds, which are outside the law. Soybean oil is a colored oil. There are many colored vegetable oils from which butter substitutes can be made and are being made.

Mr. HEBERT. Mr. President, I wish to make this observation to the Senator from South Dakota: That there is no palm oil used now by the manufacturers of these cooking compounds.

Mr. NORBECK. While that is true, there is nothing to prevent its use.

Mr. BLAINE. Mr. President, I did not mean to imply that all vegetable oil was white or clear. I was applying my remarks to edible oils, which are used in the manufacturing of a product that is in imitation of butter. As the Senator from Rhode Island has stated, some of these oils can not be used. Nobody would want to eat a product in imitation of butter made out of soybean oil any more than he would want to eat a product in imitation of butter made out of castor oil. Castor oil is yellow, of course, and soybean oil is yellow, but who is going to eat castor oil, even though it may be compounded with other vegetable fats in order to give the product a yellow color?

I repeat, that none of the oils which are used as substitutes, in imitation of butter, can be practically used except the lighter colored oils, or the clear oils, because of their taste or odor or because of their effect.

Mr. GOULD. Mr. President——

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

Mr. BLAINE. I yield.

Mr. GOULD. There is a good deal of theory in what is being said. Theory is one thing, actual practice is another. I have used tons of oleomargarine, I have used tons of so-called cooking compounds, and I can appreciate that the different opinions I have heard here are all right as far as theory goes. But I would like to ask the Senator from Wisconsin if he ever saw go into the camps up in Wisconsin a pound or a ton or any quantity of a cooking compound called oleomargarine?

Mr. BLAINE. Mr. President, the Senator asks about my observation.

Mr. GOULD. Did the Senator ever hear of it, did he ever know of it, does he believe it ever occurred?

Mr. BLAINE. Of course, the fact that I have not seen it is no proof, because I have not been in those camps at the time they were bringing in butter substitutes, and I know nothing about it from my personal knowledge. But that was not the question under debate.

Mr. GOULD. I just want to make this remark, that no one has a higher regard for a pure article than I have. I believe pure butter has its place, I believe oleomargarine has its place, and I believe the cooking compound has its place. If the three elements can be segregated and kept straight so that one can not be substituted in place of another, under false colors, it is a pretty good plan to prevent that.

There is the Great Northern Paper Co., and there is the International Paper Co., with hundreds of camps in the woods to-day. If a 10-cent duty is imposed on what are called cooking compounds, in order to bring them up to the price of oleomargarine, the cooking compounds will be kicked out, and they are pure, and have nothing injurious in them whatever. We are asked to pass a law to favor one factory against another. Neither one of them has anything to do with the pure butter enterprise of the country, has it?

Mr. BLAINE. Mr. President, of course the point I was making, as the Senator no doubt appreciates, was this, that certain packing products should not be given special consideration over similar products. In other words, they all ought to come under the same classification, and that was the point to which I was directing my remarks.

Mr. GOULD. That is a question about which I would have to differ from the Senator.

Mr. BLAINE. I am not arguing the merits of the law at this time, because we have a law now. This is a proposal to extend the provisions of the law.

Mr. NORBECK. Mr. President, the Senator from Wisconsin will agree that the bill as drafted seeks to bring in these products made from vegetable oil, to bring them under the requirements of present law as to cooperating with the Bureau of Internal Revenue passing their inspection, meeting their requirements as to paying a tax, and, above all things, as to posting the fact, where it is used, "This is not butter." This product is cheaply made, it is sold in competition with butter, and a fraud is perpetrated upon the people if it is sold as butter. The letter from the Treasury Department states that at first, when this new product came on the market, this cheaper, inferior butter, they thought they would let the manufacturers proceed. They had no objection to the manufacture of it. But when they found it was sold fraudulently in imitation of butter, they imposed a restriction on it because of the unfairness of it.

The Senator will agree with me that this new product that has come on in the last few years has cut a bigger gash in the butter market in a very short time than did the oleo in the 40 years of its use.

Mr. BLAINE. Mr. President, that is not my understanding of the situation; nor would I analyze the depressed condition of the butter market at this time from that standpoint. I think there are other factors which constituted 98 per cent of the reason why butter is so low to-day.

Mr. NORBECK. Mr. President, I am speaking of the sudden increase in the production of this article, which has grown by leaps and bounds, which has been outside of the law.

The difference is that the emulsion in the one case is water, while in the other case it is milk or cream. We label our package "Cooking compound," and therefore we can put it up in the shape of butter and sell it as butter, provided the branded label states it is a cooking compound. The dairyman suffers from many things, but most of all from this fake substitute which has come on the market in the last few years.

Mr. BLAINE. My understanding of the amendment is that it includes all substances heretofore known as oleomargarine, and so forth, all lard extracts and tallow extracts, and all mixtures and compounds of tallows, beef fat, suet, lard, lard oil, vegetable oils—I am omitting fish oil—and other coloring matter, intestinal fats and offal fats, if they are churned or emulsified or mixed in cream, milk, water, or other fluid containing moisture, and so forth. Those fats, in order to be in semblance of butter so far as the color is concerned, must have compounded with them an artificial coloring; that is, vegetable oil; but as to the lard, the tallow, the beef fat, suet, lard oil in those animal fats, the packers compound them with intestinal fat from milch cows, and that has the effect of giving the compound a yellow color, a June butter color, and it is not artificially done.

Mr. NORBECK. But that is sold as oleomargarine, and not as butter, and no one can sell it anywhere except by first obtaining a license and next posting the notices. It is not outside of the law. It is within the requirements of the law, and it can only be sold as oleomargarine.

Mr. BLAINE. But the court has held, and I am sure it is the law, that when we say a thing is made in semblance of butter, it means that it is manufactured consciously in semblance or imitation of butter. Therefore the packers' product about which we have been talking is not made in semblance of butter or in imitation of butter, because there is no coloring matter added. It is just a natural product, naturally colored, and it is not manufactured or made in semblance of anything. What I am contending for is that these animal fats should be brought within identically the same classification as vegetable fats.

Mr. NORBECK. Mr. President, this matter was threshed out pretty well last Friday and the identical amendment was offered then. I make the point of order that the same amendment can not be offered as it was offered on last Friday.

Mr. BLAINE. As I understand it, the amendment was accepted.

Mr. NORBECK. This amendment was not accepted.

Mr. BLAINE. I do not mean accepted, but that the effect of the introduction of it was that it was received by unanimous consent.

Mr. NORBECK. It was voted down on Friday.

Mr. BLAINE. I am speaking of the amendment offered this morning by the Senator from Alabama [Mr. BLACK].

Mr. NORBECK. I was at lunch at the time, and so I am not informed as to just what happened.

Mr. McKELLAR. Mr. President, before the point of order is ruled on, I make the point of no 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 | Frazier | Kendrick | Robsion, Ky. |
| Baird | George | Keyes | Schall |
| Barkley | Gillett | La Follette | Sheppard |
| Black | Glass | McCulloch | Shipstead |
| Blaine | Glenn | McKellar | Simmons |
| Blease | Goff | McMaster | Steck |
| Borah | Goldsborough | McNary | Steiwer |
| Bratton | Gould | Metcalf | Sullivan |
| Brock | Greene | Norbeck | Swanson |
| Broussard | Hale | Norris | Thomas, Idaho |
| Capper | Harris | Nye | Thomas, Okla. |
| Caraway | Harrison | Oddie | Townsend |
| Connally | Hatfield | Overman | Trammell |
| Couzens | Hawes | Patterson | Tydings |
| Cutting | Hebert | Phipps | Vandenberg |
| Dale | Heflin | Pine | Walsh, Mass. |
| Deneen | Johnson | Ransdell | Walsh, Mont. |
| Dill | Jones | Robinson, Ark. | Waterman |
| Fess | Kean | Robinson, Ind. | |

The PRESIDING OFFICER. Seventy-five Senators have answered to their names. A quorum is present. The Senator from South Dakota [Mr. NORBECK] makes the point of order against the amendment of the Senator from Wisconsin [Mr. BLAINE]. The Chair sustains the point of order.

Mr. BLACK. Mr. President, I move to reconsider the vote which was had on May 23 on the amendment of the Senator from Wisconsin [Mr. BLAINE] found on page 9811 of the RECORD, where he moved to amend the bill on page 2, lines 10 and 11, by striking out the words "made in imitation or" and inserting the words "in," so the phrase would read:

In semblance of butter.

The PRESIDING OFFICER. The question is on the motion of the Senator from Alabama to reconsider the vote by which the amendment was rejected. [Putting the question.] The noes seem to have it.

Mr. BLACK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered, and the legislative clerk proceeded to call the roll.

Mr. ROBINSON of Indiana (when his name was called). I have a general pair with the Senator from Mississippi [Mr. STEPHENS]. In his absence, and not knowing how he would vote if present, I withhold my vote. If at liberty to vote, I should vote "nay."

The roll call was concluded.

Mr. ROBINSON of Arkansas (after having voted in the affirmative). I am paired with the Senator from Pennsylvania [Mr. REED]. I transfer that pair to the Senator from Alabama [Mr. HEFLIN] and let my vote stand.

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

The Senator from New Hampshire [Mr. MOSES] with the Senator from Utah [Mr. KING];

The Senator from Delaware [Mr. HASTINGS] with the Senator from Montana [Mr. WHEELER];

The Senator from Pennsylvania [Mr. GRUNDY] with the Senator from Florida [Mr. FLETCHER];

The Senator from Iowa [Mr. BROOKHART] with the Senator from Maryland [Mr. TYDINGS]; and

The Senator from Indiana [Mr. WATSON] with the Senator from South Carolina [Mr. SMITH].

Mr. SHEPPARD. I desire to announce that the Senator from Alabama [Mr. HEFLIN], the Senator from Nevada [Mr. PITTMAN], the Senator from New York [Mr. WAGNER], the senior Senator from Arizona [Mr. ASHURST], and the junior Senator from Arizona [Mr. HAYDEN] are absent from the Senate on official business.

The result was announced—yeas 36, nays 38, as follows:

YEAS—36

| | | | |
|---|---|---|---|
| Baird | Dill | Harrison | Ransdell |
| Barkley | George | Hatfield | Robinson, Ark |
| Black | Gillett | Hebert | Simmons |
| Blaine | Glass | Kean | Swanson |
| Blease | Goff | La Follette | Townsend |
| Brock | Goldsborough | McKellar | Trammell |
| Broussard | Gould | Metcalf | Vandenberg |
| Caraway | Hale | Norris | Walsh, Mass. |
| Couzens | Harris | Overman | Walsh, Mont. |

NAYS—38

| | | | |
|---|---|---|---|
| Allen | Frazier | McMaster | Sheppard |
| Bingham | Glenn | McNary | Shipstead |
| Borah | Greene | Norbeck | Steck |
| Bratton | Hawes | Nye | Steiwer |
| Capper | Howell | Oddie | Sullivan |
| Connally | Johnson | Patterson | Thomas, Idaho |
| Cutting | Jones | Phipps | Thomas, Okla. |
| Dale | Kendrick | Pine | Waterman |
| Deneen | Keyes | Robsion, Ky. | |
| Fess | McCulloch | Schall | |

NOT VOTING—22

| | | | |
|---|---|---|---|
| Ashurst | Hayden | Robinson, Ind. | Wagner |
| Brookhart | Heflin | Shortridge | Walcott |
| Copeland | King | Smith | Watson |
| Fletcher | Moses | Smoot | Wheeler |
| Grundy | Pittman | Stephens | |
| Hastings | Reed | Tydings | |

So the Senate refused to reconsider the vote by which Mr. BLAINE's amendment was rejected.

Mr. CONNALLY. Mr. President, I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment proposed by the Senator from Texas will be stated:

The LEGISLATIVE CLERK. On page 2, line 6, after the word "butterine," it is proposed to insert the words "artificially colored butter."

Mr. CONNALLY. Mr. President, I should like to have the attention of the Senator from South Dakota [Mr. NORBECK] and the Senator from Wisconsin [Mr. BLAINE] to the statement I am about to make relative to the amendment which I have offered.

The effect of this amendment, should it be adopted, would be to put artificially colored butter at some disadvantage with reference to naturally colored butter. This entire oleomargarine bill is designed for the protection of the butter producers, but under the present law genuine butter, naturally colored, has no protection at all against the artificially colored butter. If we are going to tax vegetable-oil products because they are artificial, because they are colored, and make them pay a penalty of 10 cents a pound, why should the honest-to-God dairy farmer who produces real butter, colored in a natural way on account of the richness of the food of the cow, and which looks golden and is golden, be penalized by permitting his competitors artificially to color their butter, making it look like the beautiful golden butter that is genuine, and palm it off on the public as real butter? Why should not the man who artificially colors butter pay the same tax and be subject to the same regulation as is the man who, producing oleomargarine, colors it, disguises it, and dresses it up with all the adornments that will tempt the appetite so as to make one believe that it is butter? In the case of artificially colored butter the public may be imposed upon, it may be defrauded, it may be deceived, it may pay the same price for the artificial butter that it pays for the genuine butter.

If we are going to lay down this arbitrary method of taxing a product because it is artificial, I can not see any reason why butter should not be put under the same regulations and to the same extent.

Mr. GLASS. Mr. President——

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

Mr. CONNALLY. I yield.

Mr. GLASS. The Senator seems to confuse terms. Any butter that is colored is artificially colored.

Mr. CONNALLY. Not necessarily.

Mr. GLASS. Absolutely. Butter that is colored is artificially colored. The Senator seems to confuse artificial butter with colored butter.

Mr. CONNALLY. No.

Mr. GLASS. More than half—I venture to say at least half—of the genuine butter produced from the milk of a certain type of dairy cow is colored, but it is genuine butter all right; in other words, butter from the milk of a Holstein cow, which naturally is as white as this piece of paper, after being colored is just as much butter as is butter from the milk of a Jersey cow or from a Guernsey cow, which has a naturally yellow color.

Mr. CONNALLY. Let me ask the Senator, then, why do the producers color it?

Mr. GLASS. Because of a desire to appeal to the public fancy; that is all.

Mr. CONNALLY. Certainly; that is exactly it.

Mr. GLASS. I will say to the Senator that perhaps the greater number of dairymen in this country, I am sorry to say, are those who own Holstein cows, and if the Senator stands here in behalf of the dairy interests he is making a great mistake to offer any amendment such as the one now pending.

Mr. CONNALLY. Let me say to the Senator from Virginia that I have no quarrel with him as to his attitude; but the fact is that if the butter is naturally white and those who produce it add a coloring preparation to make it some other color, they have a reason for it. If it is Holstein butter—and I do not dispute the Senator's statement——

Mr. GLASS. As a breeder of Jersey cows, I will tell the Senator what the reason is: The producers want to make Holstein butter look like Jersey butter.

Mr. CONNALLY. Of course. I care nothing about whether butter comes from milk of the Holstein or the Jersey cow; I have neither, though the people of my State have a great many of both; but if the butter from Holstein milk is white and if it is good butter, as good as butter produced by milk from the Jersey cow, which is yellow, there is no reason on earth for coloring it except for the purpose of deceiving the public and making the public think that they are buying Jersey butter when they are not buying Jersey butter.

The Senator, perhaps, was not here on Friday when we were discussing this matter. The pretext that is offered as a justification for taxing vegetable-oil products which are made into oleomargarine is that the producers artificially color the oleomargarine; they make it in imitation of butter and sell it for the same purposes as butter. If that argument is good as against a vegetable product, which harbors no tuberculosis germs, which harbors no animal germs, then the same rule ought to be good as against butter which is frequently palmed off on the public as being something which it is not. My position is that if the butter is artificially colored, artificially treated, made to appear something which it is not, if it is a

false representation upon the public, it ought to be placed upon the same plane as these other products that are penalized because they are imitations.

I do not know what the fate of this amendment will be. I am not personally concerned with it one way or the other. My State has a great dairy industry; it also has a great vegetable-oil industry; but there can be no justification, there can be no basis in fairness or reason, for taxing one product because it is an imitation, and permitting another product of the same variety to go untaxed when it is also an imitation of the real product, or the yellow butter.

Mr. HEBERT. Mr. President, may I ask the Senator from Texas if his pending amendment would in any way affect these naturally colored products of the packers and tax them at the same rate as other colored products?

Mr. CONNALLY. My amendment relates only to artificially colored butter. If the packers produce an article that is sold as butter it certainly would; otherwise, it would not.

Mr. HEBERT. It does not apply to oleomargarine?

Mr. CONNALLY. The law already applies to oleomargarine. I am simply trying to include artificially colored butter in the same classification as oleomargarine. Why should oleomargarine when it is artificially colored be taxed 10 cents a pound when a fraudulent butter, artificially colored and being sold in the same trade, goes free of tax?

Mr. HEBERT. Is it not a fact that a large proportion of dairy butter is colored at some time in the year?

Mr. CONNALLY. Artificially?

Mr. HEBERT. Yes.

Mr. CONNALLY. I suppose it is.

Mr. HEBERT. That is my understanding, that it is.

Mr. CONNALLY. Why should it not be taxed, if it is artificially colored, regardless of when it is colored?

Mr. HEBERT. I did not suppose that it was the intent of Congress to go that far in legislating at this time; but, of course, if we are going to penalize one concern for coloring its product, then surely everybody else who is doing the same thing ought to pay a like penalty. I agree with the Senator to that extent; but I just wanted to remark to him that the imposition of a tax of this nature would affect a large proportion of the dairy products, because, as I understand, a large amount of dairy butter is colored at certain times in the year.

Mr. CONNALLY. Let me say to the Senator that, as he says, it will probably penalize some of the dairy products, but it will benefit the real dairy producers. The ones that produce real butter, the ones that do not camouflage their butter, the ones that sell pure butter will then get a premium in the market; but the one who artificially colors his butter, who keeps it young and fresh by artificial means and other processes of that kind, of course will not get quite so much for his butter; and he ought not to get quite so much for his butter as the man who has fresh butter, naturally colored butter, a butter that nature makes rather than the chemical laboratories make.

Mr. HEBERT. I am inclined to agree with the Senator that that would be the effect of his amendment.

Mr. NORBECK. Mr. President, this would be a tax on about 50 per cent of the products of the dairy farmer at 10 cents a pound, because at certain times of the year, when the milk cows are on dry feed, the butter fails to show the high color that we find in the summer. It would be especially a tax on the Holstein product, which has less color than the Jersey product.

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

Mr. NORBECK. Yes.

Mr. CONNALLY. In those seasons when the Senator says the butter is not quite as yellow, it is the same butter; it is just as good butter, is it not?

Mr. NORBECK. Oh, certainly.

Mr. CONNALLY. And it is just as valuable to the human body?

Mr. NORBECK. Why, to be sure.

Mr. CONNALLY. Why should it be palmed off on the public, then, by artificially coloring it to make the public think it is buying some other kind of butter?

Mr. NORBECK. I am not arguing with the Senator. I am saying that this will be a tax of 10 cents a pound on about half the butter produced in the United States, and the tax will be borne by the farmers.

Mr. CONNALLY. Let me ask the Senator if the other 50 per cent of the dairymen will not get the benefit of it in increased value for their real butter?

Mr. NORBECK. No; because the Holstein farmer will buy butter color and put it in, and pay the 10 cents a pound tax, and the butter will be sold. The Senator has made no classification of butter. It will all be sold at the same price, but there will be a very heavy tax on half the dairy farmers of the country.

Mr. HEBERT. Mr. President, may I ask the Senator from South Dakota a question? If, as he says now, there is method in the dairy farmers adulterating or coloring their butter, why should they not pay the penalty just as well as the manufacturers of other food products upon whom the Senator would impose a penalty of 10 cents a pound?

Mr. NORBECK. That is a question that has been argued here for 40 years. Congress has taken its position, and the courts have taken theirs. I am not going into the question whether or not there should be a penalty on the dairy farmers.

Mr. HEBERT. I submit that that is not an answer to my question; and it does not remove the objection, by any means.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Texas [Mr. CONNALLY].

The amendment was rejected.

Mr. WALSH of Massachusetts. Mr. President, I desire to offer the following amendment. Add a new section, as follows:

That section 8 of said act approved August 2, 1886, be amended to read as follows:

"SEC. 8. That upon oleomargarine which shall be manufactured and sold or removed for consumption or use there shall be assessed and collected a tax of 5 cents per pound, to be paid by the manufacturer thereof"—

And so forth, as in present law.

Mr. President, in brief, this amendment reduces the tax upon oleomargarine and the cooking compounds included in this bill from 10 cents a pound to 5 cents per pound.

Enough has transpired during this debate to call attention to the fact that this is a consumption tax—one of the few cases, in fact, the only case, that I know of where an internal-revenue tax is imposed for the purpose of protecting one domestic producer against competition with another domestic producer. We do impose internal-revenue taxes for the purpose of protecting domestic producers against competition by foreign producers; but here, for the first time, we have sought through taxation, through a sumptuary law, to say that the great power of this Government will be used to favor one American producer against another competing American producer.

It is unjust. No man dare defend it on the floor here. The only defense offered is that it is already the law and has been the law for a good many years and therefore it is proper to extend the original principle.

It is vicious enough to impose a tax for the benefit of one domestic producer against another; but it is even more indefensible to impose a tax of this magnitude. A tax of 10 cents per pound on oleomargarine, I am informed, is an equivalent ad valorem tax of about 40 per cent; that is, when oleomargarine sells for 25 cents a pound, which I understand is a fair estimate of the average price for which it is sold.

Mr. HEBERT. Mr. President, if the Senator will yield, my understanding is that the cooking compounds which are attempted to be reached by this amendment have a cost value of approximately 17 cents per pound; so if this tax be imposed upon those compounds it will mean a tax of something over 60 per cent, instead of 40 per cent.

Mr. WALSH of Massachusetts. I thank the Senator for calling my attention to that fact. I had in mind particularly the average price of what is commonly called oleomargarine and what is in the original law, and I am pleased to have the effect of this tax upon the other products included in the provisions of this bill. I appreciate the Senator's action in calling my attention to the fact that upon these products this tax of 10 cents a pound will work out to be a tax of 60 per cent in ad valorem terms to the consumers of America.

Mr. President, I want a record in the Senate upon this question. I want to have the RECORD show how many Senators desire to impose a tax of 60 per cent upon food compounds, and especially upon food material used by the poorest of the poor people of America. I also want to have the RECORD show who are willing to continue the present tax on oleomargarine.

I can sympathize with the desire of those Senators who represent dairy-producing States to go very far in seeking legislation to protect their farmers and their interests; but I can not understand how one can attempt to incorporate or continue to keep in the law such a vicious and dangerous principle as this. It is tyranny by use of the power of taxation. No one dare predict the harm that may follow if the principle is extended to other products than butter and its substitutes.

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

Mr. WALSH of Massachusetts. Certainly; I am glad to yield.

Mr. ROBINSON of Arkansas. This is a proposal to tax one wholesome agricultural commodity for the purpose of promot-

ing the use of another agricultural commodity. It is an abuse of the taxing power.

Mr. WALSH of Massachusetts. The Senator has stated very concisely the whole issue here. It is a tremendous abuse of the taxing power. The abuse of the taxing power against which our forefathers rose up in rebellion was insignificant compared with this. At least the taxing power they rose up against was uniform, imposed by the mother Government upon all the colonists for the benefit of the mother Government. Here it is proposed to promote the welfare of a group at the expense and to the detriment and financial injury of an exceedingly large group of poor consumers.

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

Mr. WALSH of Massachusetts. I yield.

Mr. BARKLEY. It is being claimed here that the object of this bill is to bring within the present law certain substitutes that are now escaping taxation, that were either originally intended by Congress to be taxed or have escaped because of new names or new processes. Does the Senator think—I am seeking only his viewpoint—that the whole tax ought to be removed or that these substitutes, such as they are, should be all treated in the same way?

If part of them are being taxed, it strikes me that it is a little unfair to leave similar articles untaxed because called different names or made up of different substances. If the Senator's contention is correct—and there is much force in it—it might be wiser to eliminate the tax altogether, so as not to make flesh of one and fowl of the other. What does the Senator say about the object of this bill in that regard?

Mr. WALSH of Massachusetts. I appreciate the fact that the existence of a tax upon oleomargarine might justify the extension of that vicious principle by those who believe in it to include the cooking products included in this bill. I can well understand the advocates of this bill taking that position. I personally feel that the principle itself is vicious, and therefore would like to see the original tax upon oleomargarine repealed; and, of course, I will vote against the extension of the tax to the articles contained in this bill.

Mr. BARKLEY. I understood the Senator to be against the principle, not only against the tax in existence, but to the extension of it. But assuming that the present tax is to be allowed to remain, the question arises in my mind as to whether it is fair to tax what we are now taxing and let go untaxed similar articles which are used as substitutes and may evade the tax in that way.

Mr. WALSH of Massachusetts. In any event, I am raising now the issue of the amount of the tax. I am claiming that whether we tax oleomargarine alone, or whether we add the tax to the substitute oleomargarine products contained in the bill, we should lower the rate. I personally would like to see the rate entirely removed and the principle destroyed. I do think that the tax of 10 cents per pound is outrageous and indefensible from every standpoint, even assuming the theory of the principle of levying a tax under such circumstances upon a food product. It is excessive as well as unsound.

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

Mr. WALSH of Massachusetts. I yield.

Mr. GOULD. As I understand, the Senator from Massachusetts suggests that this tax should be cut in half—that is, that it should not be 10 per cent but 5 per cent. Does the Senator think there should be a tax at all?

Mr. WALSH of Massachusetts. I do not think there should be any tax at all.

Mr. GOULD. Why not wipe it out, then?

Mr. WALSH of Massachusetts. I would like to do that, but I can understand that it might result in some injury if we wipe it out all at one time. I can appreciate the argument that the dairy industry would be less injured by our lowering the tax now and later removing it entirely.

Mr. GOULD. The Senator's argument fits into my ideas exactly. There should be no tax whatever. If the distinction is made between pure butter and oleomargarine, and then between oleomargarine and cooking compounds, that is all there is to it. We are bickering about something that is not what we want to get at. We do not object to a man using peanut oil or coconut oil or anything else in his home or in his camp or anywhere else, if he wants to use it. Nobody objects to that. If some factory puts out a compound which answers for cooking purposes in a camp just as well as oleomargarine or pure butter, or something of that kind, why require the payment of a tax and countenance what we might say is a fraud or an imitation? Why tax a man and let him do something we are trying to prevent him from doing? The only objection I see to the amendment of the Senator from Massachusetts is that it would allow any tax whatever to be put on a commodity of this kind.

Mr. WALSH of Massachusetts. If we succeed in getting this amendment adopted, we will have an opportunity, by a vote upon it, to determine the sentiment of the Senate, and we can then move to wipe the out the tax entirely.

I am not going to discuss the amendment longer. I wish I had time to review the debate in the House and in the Senate upon the original proposal in 1888. I can not understand how we ever incorporated such a principle into the Federal law. The only argument we have heard is that it is now the law so far as oleomargarine is concerned, and that it should be extended to include other cooking products. I can not conceive how such a vicious, indefensible principle ever became part of the law of this free land.

I shall ask for a roll call upon this amendment. I sincerely hope that at least we will take the first step to eradicate this law from the statute books, by reducing in half the tax of 60 per cent, in the case of cooking compounds and of 40 per cent ad valorem in the case of oleomargarine. This amendment will attempt to lessen the present injustices that are inflicted upon a large army of American consumers.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Massachusetts.

Mr. WALSH of Massachusetts. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DILL. Let the amendment be reported.

The VICE PRESIDENT. The clerk will read the amendment.

The LEGISLATIVE CLERK. The Senator from Massachusetts proposes to add to the bill an additional section, as follows:

SEC. —. That section 8 of said act approved August 2, 1886, is amended to read as follows:

"SEC. 8. That upon oleomargarine which shall be manufactured and sold, or removed from consumption or use, there shall be assessed and collected a tax of 5 cents per pound, to be paid by the manufacturer thereof"—

And so forth, as in the present law.

The VICE PRESIDENT. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBINSON of Arkansas (when his name was called). I have a pair with the Senator from Pennsylvania [Mr. REED], which I transfer to the Senator from Mississippi [Mr. HARRISON], and vote "yea."

Mr. WATSON (when his name was called). I have a pair with the senior Senator from South Carolina [Mr. SMITH]. Not knowing how he would vote, I transfer that pair to the Senator from New Jersey [Mr. BAIRD] and vote "yea."

The roll call was concluded.

Mr. STEPHENS. I have a pair with the junior Senator from Indiana [Mr. ROBINSON], and in his absence I withhold my vote. If permitted to vote, I would vote "yea."

Mr. OVERMAN (after having voted in the affirmative). Mr. President, has the senior Senator from Illinois [Mr. DENEEN] voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. OVERMAN. I transfer my pair with that Senator to the Senator from Missouri [Mr. HAWES] and allow my vote to stand.

Mr. SIMMONS (after having voted in the affirmative). I wish to inquire whether the senior Senator from Massachusetts [Mr. GILLETT] has voted.

The VICE PRESIDENT. That Senator has not voted.

Mr. SIMMONS. I have a pair with that Senator, which I transfer to the Senator from Nevada [Mr. PITTMAN], and allow my vote to stand.

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

The Senator from New Hampshire [Mr. MOSES] with the Senator from Utah [Mr. KING];

The Senator from Delaware [Mr. HASTINGS] with the Senator from Montana [Mr. WHEELER];

The Senator from Pennsylvania [Mr. GRUNDY] with the Senator from Florida [Mr. FLETCHER]; and

The Senator from Iowa [Mr. BROOKHART] with the Senator from Maryland [Mr. TYDINGS].

The result was announced—yeas 30, nays 41, as follows:

YEAS—30

| | | | |
|---|---|---|---|
| Ashurst | George | Heflin | Simmons |
| Black | Glass | Kean | Swanson |
| Blease | Goff | McKellar | Trammell |
| Bratton | Gould | Metcalf | Wagner |
| Brock | Harris | Overman | Walsh, Mass. |
| Broussard | Hatfield | Ransdell | Watson |
| Caraway | Hayden | Robinson, Ark. | |
| Connally | Hebert | Sheppard | |

NAYS—41

| | | | |
|---|---|---|---|
| Allen | Frazier | McMaster | Shipstead |
| Barkley | Glenn | McNary | Steiwer |
| Bingham | Greene | Norbeck | Sullivan |
| Blaine | Hale | Norris | Thomas, Idaho |
| Borah | Howell | Nye | Thomas, Okla. |
| Capper | Johnson | Oddie | Vandenberg |
| Couzens | Jones | Patterson | Walsh, Mont. |
| Cutting | Kendrick | Phipps | Waterman |
| Dale | Keyes | Pine | |
| Dill | La Follette | Robsion, Ky. | |
| Fess | McCulloch | Schall | |

NOT VOTING—25

| | | | |
|---|---|---|---|
| Baird | Grundy | Reed | Townsend |
| Brookhart | Harrison | Robinson, Ind. | Tydings |
| Copeland | Hastings | Shortridge | Walcott |
| Deneen | Hawes | Smith | Wheeler |
| Fletcher | King | Smoot | |
| Gillett | Moses | Steck | |
| Goldsborough | Pittman | Stephens | |

So the amendment of Mr. WALSH of Massachusetts was rejected.

Mr. TRAMMELL. Mr. President, it is always my desire when I can possibly do so to assist our agricultural interests. I am going to vote against the bill and I feel that in doing so I will at least assist a very large majority of the farmers of the country. I am opposed to the bill because it is an abuse of the taxing power that is beyond all reason and justice. It is an effort to boost the interests of a comparatively small number of our citizens to the detriment of a very large number of citizens of the United States, and those against whom it imposes a burden are hundreds of thousands of farmers and millions of consumers.

Mr. BARKLEY. Mr. President, is not that what the Congress has been doing for the past 18 months?

Mr. TRAMMELL. Of course, it depends on the viewpoint. We have been doing that in a little different way.

Mr. BARKLEY. The result is just the same.

Mr. TRAMMELL. It is a different way altogether of inflicting the imposition of a tax of that character on the country. I understand, of course, that the Senator refers to the tariff bill.

Mr. BARKLEY. Yes; I do.

Mr. TRAMMELL. I shall not get into any discussion of the tariff bill at this time. I think it is an altogether different policy. This bill applies only to an internal tax; the other is against foreign importations.

Mr. BARKLEY. One difference is that this is a much more modest tax than some of the rates in the tariff bill.

Mr. TRAMMELL. Well, the requirements of this bill reach high into the millions. This amounts to $33,000,000 increase in the bill which the consumers of the country will have to pay for the substitute products which will be brought within its provisions, if the bill is enacted into that law. I think that is a pretty good-sized item to lay upon the consumers of the country—$33,000,000 per annum. This would be the result, according to the statistics furnished by the department as to the amount of uncolored substitutes consumed last year. The pending bill attempts to boost the industry of a comparatively small group of people—and when I say "comparatively" I mean the number of people engaged in the dairy industry in the country as compared to the number of other classes of farmers and of other citizens who consume the products which it is here attempted to tax.

I am also opposed to the bill because I think that it holds out a false hope to the dairy farmers of the country. I do not believe the dairy farmers of the country are going to receive the benefit which the proponents of the measure hope they will receive. The price of these wholesome products can be increased to the consumer in an effort to make the poor in the country contribute his part to this increase of 10 cents a pound in the way of tax, but it will not force him to buy the dairy products. The average person in the country to-day, the consumer who is purchasing these substitutes, is doing it because he is not able to purchase pure butter. By increasing the price of the substitutes 10 cents per pound, we are not going to force the users to buy the dairy butter. All that will be accomplished is to impose an additional burden upon him in his efforts to provide sustenance for his family and his household. It will not increase the sale of actual butter at all.

That is my view of the situation. If this bill passes, the consumers of the country will be made to pay about $33,000,000 more for these products per annum; that is, if they continue to buy in the same amount. I submit that is a great injustice to inflict upon the poor people of the country who are unable to purchase butter at two or three times what they have to pay for butter substitutes; and let us remember these substitutes are wholesome and approved under the pure food law. They should have a right to purchase the substitutes if they consider them as wholesome as does the Pure Food Bureau of the Department of Agriculture, just the same as the person who is rich in purse or has sufficient funds has the right to purchase dairy products without being taxed in the purchase of them.

Where is the justice in imposing a tax of 10 cents a pound upon a certain article of food that is consumed by the poor people of the country, when a better article of food which is consumed by the well-to-do of the country has no tax imposed upon it? I would not array class against class; I have never believed in doing that, but there is a principle of justice that should pervade legislation as between those who are able to buy the finer and better products and those who have to buy the less expensive products. Yet the bill singles out the people of the country who are less able to pay for a certain article of food consumption and says that we will make them pay 10 cents a pound more for the product in order to help somebody else. I repeat they should have the right to purchase those products without having an additional tax imposed upon them.

I am very much opposed to increasing the cost of these products to the extent of $33,000,000 per annum, because that is what it amounts to under the terms of the measure now before us. I do not believe that the dairy producers of the country will be benefited in the least on account of this tax. It will only result in imposing a greater burden upon the poor people of the country who desire to use the substitutes.

Mr. BLACK. Mr. President, the Senator forgets, however, that the tax on what the packers manufacture will not be affected by the increase.

Mr. TRAMMELL. Oh, yes. The majority of the Senate refused to strike out that discrimination. That is another very serious objection to the bill. The majority said the packers can go ahead and get a considerable quantity of their products on the market with a tax of only one-fourth of a cent per pound, while all of the other substitutes will have to pay 10 cents a pound tax. The majority refused to strike out that discrimination. I think the bill ought to be defeated upon that ground alone, if not for other good and sufficient reasons.

I am a friend of the farmers of the country, a friend of agriculture. I voted for substantial tariffs to try to assist the dairy producers when we had the tariff bill before us here. In many instances I have voted in their behalf. But I think that the consumers of the country should be considered. I think the millions and millions of farmers who are not dairy producers ought to be considered. It is the duty of Congress to give the same thought and the same consideration to the burdens which may be imposed upon this great class of American citizens. I hope the bill will be defeated.

The VICE PRESIDENT. The bill is open to amendment. If there be no further amendments, the question is, Shall the amendments be engrossed and the bill read a third time?

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

The bill was read the third time.

The VICE PRESIDENT. The question is, Shall the bill pass?

Mr. BLACK. Mr. President, 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 | Frazier | Keyes | Sheppard |
| Ashurst | George | La Follette | Shipstead |
| Baird | Glass | McCulloch | Simmons |
| Barkley | Glenn | McKellar | Steck |
| Bingham | Goff | McMaster | Steiwer |
| Black | Goldsborough | McNary | Stephens |
| Blaine | Gould | Metcalf | Sullivan |
| Blease | Greene | Norbeck | Thomas, Idaho |
| Borah | Hale | Norris | Thomas, Okla. |
| Bratton | Harris | Nye | Trammell |
| Brock | Harrison | Oddie | Vandenberg |
| Broussard | Hatfield | Overman | Wagner |
| Capper | Hawes | Patterson | Walcott |
| Caraway | Hayden | Phipps | Walsh, Mass. |
| Connally | Hebert | Pine | Walsh, Mont. |
| Couzens | Heflin | Pittman | Waterman |
| Cutting | Howell | Ransdell | Watson |
| Dale | Johnson | Robinson, Ark. | Wheeler |
| Deneen | Jones | Robinson, Ind. | |
| Dill | Kean | Robsion, Ky. | |
| Fess | Kendrick | Schall | |

The VICE PRESIDENT. Eighty-one Senators have answered to their names. A quorum is present. The question is, Shall the bill pass?

Mr. HEBERT and Mr. ROBINSON of Arkansas asked for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. ROBINSON of Arkansas (when his name was called). Announcing the same pair as on the previous vote, I transfer that pair to the Senator from Virginia [Mr. SWANSON] and vote "nay."

Mr. SIMMONS (when his name was called). I have a general pair with the senior Senator from Massachusetts [Mr. GILLETT]. Not knowing how that Senator would vote if present, I transfer that pair to the Senator from Wyoming [Mr. KENDRICK] and vote "nay."

Mr. WHEELER (when his name was called). On this question I have a pair with the senior Senator from Delaware [Mr. HASTINGS]. I have been unable to secure a transfer and, consequently, I withhold my vote.

Mr. WATSON. I have a general pair with the Senator from South Carolina [Mr. SMITH] and, therefore, withhold my vote.

Mr. SHEPPARD. I wish to announce that the Senator from Wyoming [Mr. KENDRICK], who is necessarily absent, if present, would vote "yea."

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

The Senator from New Hampshire [Mr. MOSES] with the Senator from Utah [Mr. KING];

The Senator from Pennsylvania [Mr. GRUNDY] with the Senator from Florida [Mr. FLETCHER]; and

The Senator from Iowa [Mr. BROOKHART] with the Senator from Maryland [Mr. TYDINGS].

The result was announced—yeas 44, nays 32, as follows:

YEAS—44

| | | | |
|---|---|---|---|
| Allen | Fess | McMaster | Robsion, Ky. |
| Barkley | Frazier | McNary | Schall |
| Bingham | Glenn | Norbeck | Shipstead |
| Blaine | Greene | Norris | Steck |
| Borah | Hawes | Nye | Steiwer |
| Capper | Howell | Oddie | Thomas, Idaho |
| Couzens | Johnson | Patterson | Thomas, Okla. |
| Cutting | Jones | Phipps | Vandenberg |
| Dale | Keyes | Pine | Walcott |
| Deneen | La Follette | Pittman | Walsh, Mont. |
| Dill | McCulloch | Robinson, Ind. | Waterman |

NAYS—32

| | | | |
|---|---|---|---|
| Ashurst | George | Hatfield | Ransdell |
| Black | Glass | Hayden | Robinson, Ark. |
| Blease | Goff | Hebert | Sheppard |
| Bratton | Goldsborough | Heflin | Simmons |
| Brock | Gould | Kean | Stephens |
| Broussard | Hale | McKellar | Trammell |
| Caraway | Harris | Metcalf | Wagner |
| Connally | Harrison | Overman | Walsh, Mass. |

NOT VOTING—20

| | | | |
|---|---|---|---|
| Baird | Grundy | Reed | Swanson |
| Brookhart | Hastings | Shortridge | Townsend |
| Copeland | Kendrick | Smith | Tydings |
| Fletcher | King | Smoot | Watson |
| Gillett | Moses | Sullivan | Wheeler |

So the bill was passed.

Mr. NORBECK. Mr. President, I ask to have printed in the RECORD a letter from Robert H. Lucas, Commissioner of Internal Revenue, with reference to the Connally amendment to the so-called oleomargarine bill which has just been passed.

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

TREASURY DEPARTMENT,
*Washington, May, 26, 1930.*

Hon. PETER NORBECK,
*United States Senate.*

MY DEAR SENATOR: I have the honor of replying to your letter dated May 26, 1930, requesting the opinion of this office as to the effect upon H. R. 6, now pending before the Senate, of a certain amendment relating thereto offered by Senator CONNALLY. The amendment in question identifiable as relating to page 2, after line 20 of H. R. 6, provides that:

"This section shall not apply to cooking compounds or cooking oils not made in imitation of butter and containing no artificial coloring or deleterious substance."

Manufacturers of so-called cooking compounds have steadfastly contended that their product was not made in imitation or semblance of butter and therefore did not come within the provisions of the oleomargarine law. This contention was upheld by the District Court of Rhode Island in the case of Higgins Manufacturing Co. *v.* Page, and rejected by the District Court for the Western District of Missouri in Harrow-Taylor Butter Co. *v.* Crooks.

These products are salted like butter, have the texture and appearance of oleomargarine and investigations conducted by the Government as to their sale proved conclusively that these so-called cooking compounds were actually being sold and used as butter substitutes.

Bill H. R. 6 was drafted to bring these so-called cooking compounds within the definition of oleomargarine as provided in the act of August 2, 1886, as amended by the act of May 9, 1902, and thus avoid the multiplicity of law suits and conflicting court decisions with which the Government was threatened in every attempt made to hold such products subject to the oleomargarine law. In my judgment, the bill as introduced already exempts from its operation all bona fide cooking compounds, cooking oils, lard substitutes and puff-pastry shortening. The manufacturers of so-called colored cooking compounds have always contended that their product is not made in imitation of butter; and it will not be difficult for the manufacturers to eliminate artificial coloring and secure the butter tint by the use of naturally colored oils in the manufacture of their product. I am, therefore, of the opinion that Senator CONNALLY'S amendment will effectually nullify the very object of the proposed legislation contained in bill H. R. 6.

Very truly yours,

ROBT. H. LUCAS, *Commissioner.*

EXECUTIVE MESSAGES REFERRED

The VICE PRESIDENT laid before the Senate executive messages from the President of the United States making sundry nominations, which were referred to the appropriate committees.

FLATHEAD RIVER POWER SITES

Mr. SCHALL. Mr. President, I ask unanimous consent to have printed in the RECORD a telegram and certain correspondence with reference to the Flathead River power site permit.

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

The telegram and correspondence are as follows:

POLSON, MONT., *May 24, 1930.*

Hon. Senator SCHALL,
*Senate Office Building, Washington, D. C.:*

Tribe's position unchanged. Strongly opposed proposal to lease Rocky Mountain Power Co. Consider it fraud against Indians; committed against wishes and advice tribe. Will cause diminished prosperity, diminished opportunity for employment, continuous injury for 50 years to come. We urge passage Shipstead-Kvale joint resolution.

COVILLE DUPIUS,
*Chairman Flathead Tribal Council.*

MAY 8, 1930.

Subject: Flathead River power sites.

Hon. RAY LYMAN WILBUR,
*Secretary of the Interior, Washington, D. C.*

MY DEAR DOCTOR WILBUR: Referring to the application of Walter H. Wheeler, consulting engineer, of Minneapolis, Minn., for a preliminary permit to develop hydroelectric power on the Flathead River in Montana.

The people of the Northwest are vitally interested in the proper disposition of these power sites. In my opinion these power sites or any of them should not be leased to the Rocky Mountain Power Co., subsidiary of the Montana Power Co., and closely associated with the Anaconda Copper Co., because:

1. So doing will help to make complete and perpetuate the industrial and power monopoly which these corporations now enjoy in the State of Montana, and it will also prevent the use of any of these power sites as an aid to independent industrial development. Industrial development is very sorely needed in the Northwest, and everything possible should be done to encourage such development. These power sites offer the best opportunity to bring large-scale industrial development into that territory.

2. The Montana Power Co. already owns a number of undeveloped power sites with a capacity of over 200,000 horsepower. It is certainly contrary to public policy to give them the additional power that is in the Flathead sites and thus tie up that much power to them and prevent its use for new industrial development.

Mr. Wheeler has made a good showing to your commission according to information reaching me, and I feel that he is entitled to have his application given every consideration by the Federal Power Commission. It seems to me that he should be preferred by the commission because he proposes industrial development by the aid of cheap, very cheap power from the Flathead sites. He proposes to sell to all comers at $15 per horsepower year for continuous prime power at the power house switchboard. His plan offers the possibility of getting a large fertilizer plant in the Northwest where the demand for fertilizer is growing very rapidly and promises to grow much more rapidly in the future.

As this is one of the greatest undeveloped power sites left in the country, it seems to me that the Power Commission should weigh well their decision in this matter, and since both you and Secretary Hyde have testified before the Interstate Commerce Committee of the House that the members of the commission do not have time to go into these matters thoroughly, it seems to me that the decision in this case should be deferred until after the new commission proposed by the Couzens bill has been created so that the new commission can pass upon this case.

Cordially yours,

THOMAS D. SCHALL.

THE SECRETARY OF THE INTERIOR,
*Washington, May 9, 1930.*

Hon. THOMAS D. SCHALL,
*United States Senate.*

DEAR SENATOR SCHALL: This acknowledges your kind letter of May 8, in regard to the Flathead River power sites.

I note the points which you bring out. These have been given the most careful study. It happens that in this particular case the real responsibility rests upon the Secretary of the Interior, who represents the interest of the Indians. The relation of the Federal Power Commission is, under the legislation, a somewhat secondary one. The clause of the law regarding this is as follows:

"*Provided further*, That the Federal Power Commission is authorized, in accordance with the Federal water power act and upon terms satisfactory to the Secretary of the Interior, to issue a permit or permits or a license or licenses for the use—for the development of power—of power sites on the Flathead Reservation and of water rights reserved or appropriated for the irrigation projects: *Provided further*, That rentals from such licenses for use of Indian lands shall be paid the Indians of said reservation as a tribe, which money shall be deposited in the Treasury of the United States to the credit of said Indians and shall draw interest at the rate of 4 per cent."

The difficulties that have to be met are associated with securing a proper rental for the Indians. Up to the present we have been unable to secure a sufficient dependable rental for the site, although there is some prospect that we may be able to do so.

Very sincerely yours,

RAY LYMAN WILBUR.

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WASHINGTON, D. C., *May 17, 1930.*

Subject: Flathead River power sites.

Hon. RAY LYMAN WILBUR, *Secretary of the Interior,*
and MEMBERS OF THE FEDERAL POWER COMMISSION,
*Washington, D. C.*

MY DEAR MR. WILBUR: Your kind letter of the 9th instant was duly received and carefully noted.

Of course, the Federal water power act was not superseded in any respect by the amendment to the appropriation bill of 1928, from which you have quoted in your letter. The responsibility for issuing licenses on Indian reservations remains with the Federal Power Commission, and all of the provisions of the Federal water power act remain in full force and effect. The control of Indian power sites was vested in the Federal Power Commission when the power act was created, because public interest is necessarily involved and not exclusively Indian interest. Under the terms of the act the Indians are entitled to a reasonable rental, but the public is entitled to have the license or permit granted to the applicant whose plan of development is calculated to best use the power in the public interest.

In the present instance the Indian interest and the public interest are one. Both are interested to have the permit or license go to that applicant whose plan of development will result in the greatest development in the vicinity of the power sites, furnish the most employment to labor, make the most use of the natural resources and raw materials of the region and furnish power to the public at the lowest rates. Mr. WHEELER's plan does all of these things, and further it brings into the Northwest and the ninth Federal reserve district a type of large industrial development which is very badly needed and which can be had in no other way.

Any action or presumption by the Interior Department usurping to itself the functions of the Federal Power Commission will be contrary to the letter and spirit of the law.

Since our previous correspondence the so-called Couzens bill, providing for a full-time Federal Power Commission, has passed the Senate without debate. It seems to me that there is no argument whatever that can be successfully advanced against postponing action in this Flathead matter until the proposed new commission can review and act upon it. There is every reason why this action should be delayed for the new commission, and I again urge the advisability and public necessity for so doing.

In your letter you mention, "Up to the present we have been unable to secure a sufficient dependable rental for the site, although there is some prospect that we may be able to do so."

In your opinion what is a sufficient rental for the five sites? What is a sufficient rental for the one site on which you have been negotiating with the Rocky Mountain Power Co.? What do you mean by "dependable rental"?

Of course, you know that the Indians accepted Mr. Wheeler's offer of $1.12½ per horsepower and that they rejected the offer of $1 per horsepower of the Rocky Mountain Power Co. Also, as you know, Mr. Wheeler was instructed by the acting secretary of the Federal Power Commission that the first step any applicant must take was to make an agreement with the Indians for the use of their power sites, which he did. Also, as you know, it has always been the custom of the Secretary of the Interior to approve any agreement made by the Indians, provided it is fair and reasonable and provided it has been obtained by square and open dealing, as Mr. Wheeler's was.

I desire to get to the bottom of this matter, and will thank you to inform me fully as to just what is in your mind in regard to these power sites and why Mr. Wheeler's proposal is not receiving more consideration from you and the Federal Power Commission.

Respectfully yours,

THOMAS D. SCHALL.

THE SECRETARY OF THE INTERIOR,
*Washington, May 20, 1930.*

Hon. THOMAS D. SCHALL,
*United States Senate.*

MY DEAR SENATOR SCHALL: I have your letter of the 17th regarding the development of the Flathead power sites, and am inclosing a memorandum for the press issued yesterday, announcing approval of the license for Flathead Site No. 1 to the Rocky Mountain Power Co. The action was taken by the full Federal Power Commission, with the consent and approval of the Secretary of the Interior. In view of the special powers given the Secretary of the Interior under the law in connection with the issuance of a license on this site, a postponement of action until the Federal Power Commission might be reorganized would not change the situation, and it is not believed that any new facts could be developed by further hearings which would affect the situation. In the interest of the Indians securing early returns it seemed desirable to close at once with the applicant who is able and willing to commence construction promptly.

Mr. Wheeler's contract with the Indians at $1.12½ had no legal standing, as it was never approved by the Indian Bureau or the Secretary of the Interior, both of whom are charged by law to safeguard the interests of the Indians. As a matter of fact, the rental basis agreed upon in the license for site No. 1 is much more favorable for the Indians than the offers made by either of the applicants.

The other four sites are open to Mr. Wheeler to apply for and he will be shown every consideration if he can prove ability to market the power, which he has not yet done.

Very truly yours,

RAY LYMAN WILBUR.

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MAY 26, 1930.

Subject: Flathead River power sites.

Hon. RAY LYMAN WILBUR,
*Secretary of the Interior, Washington, D. C.*

MY DEAR DOCTOR WILBUR: I acknowledge receipt of your letter of the 20th instant, and in reply wish to bring to your attention a few more points in connection with this very important matter.

It is my understanding that Secretary Hyde did not personally attend the meeting and that Assistant Secretary Dunlap acted for him. Is that correct?

I disagree with you regarding reference to a full-time Federal Power Commission. I understand that both Secretaries Hyde and Hurley have stated to various persons that they have not personally familiarized themselves with the details of the Flathead case. They did not attend the hearings last fall and they have not had the time to read over the record and study the exhibits in the case. I understand that you have not personally gone over the entire record and the exhibits in this case so that you are personally entirely familiar with all of its details. As to the powers granted the Secretary of the Interior in connection with Flathead: The only power is to approve the terms of the license for the Indians. The Secretary of the Interior has no power to grant the license, except as one member of the Power Commission.

In my opinion the Secretary of the Interior and the Federal Power Commission have acted contrary to the best interests of the Indians and contrary to the public interest in this matter.

The Flathead tribal council, which is the authorized business body which represents the Indians in all such matters, is absolutely opposed to the granting of this license to the Rocky Mountain Power Co., as you know. The great majority of the members of the tribe are opposed to the granting of this license to the Rocky Mountain Power Co. Only a few Indians who are in the pay of the Rocky Mountain or Montana Power Cos. are urging this license be granted to the Rocky Mountain Power Co.

In granting this license to the Rocky Mountain Power Co. the Federal Power Commission has failed to protect the interests of the public. The Rocky Mountain Power Co. is bound to sell all of the power generated at Flathead to the Montana Power Co. The Montana Power Co. can capitalize this contract at any number of millions of dollars it chooses and charge the people of Montana a return on this inflated capitalization just as it is now doing on its other "water rights, franchises, and contracts," which represent 52½ per cent of its present capitalization, as shown by the record of the Flathead hearing. The Montana public-service commissioner has no power to control this capitalization.

By your action you have prevented the use of this power for large industrial development, such as proposed by Mr. Wheeler, which would be of tremendous benefit to all of the ninth Federal reserve district and the Northwest, and you have tied it up to ordinary public-utility use, for which there is no public necessity, particularly in view of the fact that the Montana Power Co. already has over 200,000 horsepower undeveloped in other power sites, which it stated it could use just as well as the Flathead sites and even better than the Flathead sites.

By taking the position that Mr. Wheeler must produce contracts for the sale of his power, you have gone clear beyond the provisions of the act, and required him to meet the requirements of an

application for a license, when applying for a preliminary permit. By refusing him the preliminary permit and by treating his application as a "scrap of paper," so to speak, you have made it impossible for him to produce the contracts which you have demanded.

The policy which the Federal Power Commission has followed in the granting of this license to the Rocky Mountain Power Co. is a policy which is calculated to absolutely prohibit competition for water-power sites, as it is apparent that no independent bidder has the slightest chance to have his application favorably considered.

Regarding the other four sites. They are valueless unless the United States Government will guarantee the user a continuous minimum flow of water in the river at his power plants and agree to reimburse the user and his power customers for any damages resulting from the failure of the water supply. You have placed whoever develops these other four sites at the mercy of the Rocky Mountain Power Co., and in my opinion no other interests can be persuaded to use these sites under such conditions. You have failed to protect the interests of the Indians in these other four sites by failing to establish a rental for their use and requiring their development by the Rocky Mountain Power Co. within a specified time.

Cordially yours,

THOMAS D. SCHALL.

PROBABLE EFFECT OF PROPOSED TARIFF LAW

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have printed in the CONGRESSIONAL RECORD an interview, which appears in today's issue of the Washington Daily News, with Alfred P. Sloan, Jr., president of the General Motors Corporation, attacking the pending tariff bill,

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

[From Washington News of Monday, May 26, 1930]

TARIFF MEANS FEWER JOBS, LESS BUSINESS, SAYS SLOAN—CORPORATION HEAD URGES BILL'S DEFEAT—INDUSTRIALIST SEES PROSPERITY RETARDED AND UNEMPLOYMENT INCREASED IF HAWLEY-SMOOT MEASURE BECOMES LAW—ANALYZES WORLD ECONOMIC SITUATION IN INTERVIEW WITH SIMMS

By William Philip Simms

NEW YORK.—Alfred P. Sloan, jr., president of General Motors, assailed the Hawley-Smoot tariff bill in unqualified terms to-day in an interview with the Scripps-Howard newspapers.

The head of one of the greatest business organizations in the world emphatically declared that the pending measure, if it becomes law, will hurt, not help, industry; impede, not restore, prosperity; and increase, instead of decrease, unemployment.

"I feel very strongly about this matter," said Sloan. "I am absolutely opposed to the provisions of the bill, for I am convinced that it is a revision in the wrong direction.

"In my opinion," he went on, "such a tariff will retard the return of prosperity and handicap the United States in its commercial development.

"In saying this, I am not thinking of any particular industry or any particular section of the country. I am viewing it from the broad standpoint of the welfare of the country at large. After all, General Motors products are sold right here in America, so far as the vast bulk of them are concerned, and the prosperity of the Nation as a whole is naturally of vital importance to us.

OVERSEAS MARKETS ESSENTIAL

"We must recognize and accept the fact, however, that the position of the United States, from an economic standpoint, has changed tremendously during the past 25 years, and policies, no matter how successful they may be, must be modified from time to time to conform with changed conditions.

"What I mean is this:

"The increase in our productive capacity in this country, both from the standpoint of total output as well as from the standpoint of production per man hour, has increased our ability to produce over our ability to sell. And there will be still further increase. Thus the necessity for developing overseas markets for our products becomes absolutely vital not only to our further progress but even to maintain our present economic position.

CITES RESENTMENT ABROAD

"It is impossible to sell unless, directly or indirectly, we buy.

"On top of all this we have become a creditor Nation. Foreigners owe us tens of billions of dollars which eventually must be paid back. This makes our position, from the standpoint of exchange, still more difficult because it increases our credit balances abroad which, in turn, can only be paid for either directly or indirectly in merchandise, commodities, or services of some kind or other.

"There is no denying the fact that the discussion surrounding the development of the proposed tariff measure has caused deep resentment. Definite retaliatory measures in certain countries have already been noted. More of this is bound to come.

"We must not forget that these foreign countries are our customers, and on their good will we must depend for the absorption of our constantly increasing production.

"General Motors' business overseas, for instance, is bound to be adversely affected. In fact, it already has been.

"The President's investigation into recent economic changes revealed that for some years past the trend in this country has been for the number of workers to increase faster than the number of jobs. That trend, I am convinced, will continue for some time to come. The best possible remedy that I can suggest is to do everything we can to develop foreign markets, instead of reduce them, and so make possible additional employment for American labor.

"I believe that the enactment of the present bill will not decrease but will increase unemployment, and that it will retard the development of our overseas markets which have become vital to us.

"Furthermore, it will have a tendency to force our large corporations to employ more and more capital abroad in order to maintain their growth and development, which is absolutely essential to the maintenance of their competitive positions not only at home but particularly in overseas trade.

"The tendency will be to make us more and more the world's banker, while the rest of the nations become its workshop, to the great disadvantage of our American workers.

"If foreign nations retaliate and raise tariff walls against our products, American industry must either reconcile itself to the total loss of its foreign trade or establish branch factories abroad.

"On the other hand," the chief of General Motors concluded, "if the bill is not approved, it would surely result in favorable reaction throughout the world.

"It would broaden our opportunities. It would stimulate our exports and encourage those who are carrying our commercial flag overseas. And their success means a very great deal to the rest of us here at home."

General Motors is one of the biggest employers of labor in the world. The name covers the producers of more than half a dozen makes of the best-known automobiles in the country. But in addition to that it manufactures refrigeration machines, radios, air-cooling devices, paint, and many other products.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Farrell, its enrolling clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7955) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1931, and for other purposes; and that the House had receded from its disagreement to the amendments of the Senate numbered 39 and 43 to the said bill and agreed to the same each with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House disagreed to the amendments of the Senate to the bill (H. R. 10175) 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; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. REED of New York, Mr. FENN, and Mr. BLACK were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 11965) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MURPHY, Mr. WELSH of Pennsylvania, Mr. HOLADAY, Mr. SANDLIN, and Mr. CANNON were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H. R. 12013) to revise and equalize the rate of pension to certain soldiers, sailors, and marines of the Civil War, to certain widows, former widows of such soldiers, sailors, and marines, and granting pensions and increase of pension in certain cases; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. NELSON of Wisconsin, Mr. ELLIOTT, and Mr. LOZIER were appointed managers on the part of the House at the conference.

LEGISLATIVE APPROPRIATIONS

The PRESIDING OFFICER (Mr. FESS in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 11965) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for

other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JONES. I move that the Senate insist on its amendments, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JONES, Mr. SMOOT, Mr. HALE, Mr. BROUSSARD, and Mr. COPELAND conferees on the part of the Senate.

WAR DEPARTMENT APPROPRIATIONS

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives receding from its disagreement to the amendment of the Senate No. 39 to the bill (H. R. 7955) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1931, and for other purposes, and agreeing to the same with an amendment as follows:

In lieu of the matter inserted by said amendment insert:

"Toward resurfacing the road situated in the Shiloh National Military Park and extending from the original boundaries of the park to the Corinth National Cemetery, such sum to be expended under the direction of the Secretary of War, $50,000, said resurfacing to be completed within a limit of cost of $100,000."

And receding from its disagreement to the amendment of the Senate No. 43 to the said bill and agreeing to the same with an amendment, as follows:

On page 7, of the Senate engrossed amendments, line 17, strike out all after the word "plans" down to and including the word "war," in line 19, and insert in lieu thereof "approved by him."

Mr. JONES. I move that the Senate concur in the amendments of the House to the amendments of the Senate, Nos. 39 and 43.

The motion was agreed to.

EQUALIZATION OF CIVIL WAR PENSIONS

The PRESIDING OFFICER laid before the Senate the action of the House of Representatives disagreeng to the amendment of the Senate to the bill (H. R. 12013) to revise and equalize the rate of pension to certain soldiers, sailors, and marines of the Civil War, to certain widows, former widows of such soldiers, sailors, and marines, and granting pensions and increase of pension in certain cases, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBINSON of Indiana. I move that the Senate insist on its amendment, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ROBINSON of Indiana, Mr. NORBECK, and Mr. WHEELER conferees on the part of the Senate.

AMENDMENT OF MERCHANT MARINE ACT

Mr. RANSDELL. I move that the Senate proceed to the consideration of the bill (H. R. 9592) to amend section 407 of the merchant marine act, 1928.

The VICE PRESIDENT. The question is on the motion of the Senator from Louisiana.

The motion was agreed to; and the Senate resumed the consideration of the bill.

The VICE PRESIDENT. The Senator from Tennessee [Mr. MCKELLAR] has offered an amendment to the amendment reported by the committee, which will be stated.

The CHIEF CLERK. On page 4, line 5, after the word "thereby," it is proposed to insert the following proviso:

*Provided*, That the Postmaster General shall not enter into any such contract with any person, firm, corporation, or association which is, directly or indirectly, through any subsidiary, associated or affiliated person, firm, corporation, or association, or as a holding company or through stock ownership, or otherwise, operating, or controlling the operation of, any foreign-flag ships in competition with any American-flag ships. If the Postmaster General hereafter enters into any contract under this title for carrying mail and the holder of a contract thereafter violates the terms of this proviso, said contract shall thereupon become null and void. The Postmaster General shall submit to the Shipping Board the question of the eligibility of each applicant for a mail contract under the terms of this proviso; and if, after the award of such a contract, any question arises as to whether the holder of such a contract is violating the terms of this proviso, the Postmaster General shall likewise submit such question to the Shipping Board. The Shipping Board shall determine and certify to the Postmaster General its findings with respect thereto. Such findings and certification by the Shipping Board shall be conclusive upon all parties.

He shall include in such contracts such requirements and conditions as in his best judgment will insure the full and efficient performance thereof and the protection of the interests of the Government. Performance under any such contract shall begin not more than three years after the contract is let, and the term of the contract shall not exceed 10 years.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee to the amendment reported by the committee.

Mr. RANSDELL. Mr. President, I think there should be an explanation of the amendment before voting on it.

Mr. MCKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Louisiana yield the floor?

Mr. RANSDELL. I should like to have the Senator from Tennessee explain his amendment. We had this measure under consideration for several hours some days ago, and I think the bill itself is very well understood.

Mr. MCKELLAR. Mr. President, I desire to call the attention of the Senate to the bill, which was passed by the House, and to which the Senate Committee on Commerce has reported an amendment, in the nature of a substitute, authorizing the Postmaster General and the Shipping Board to enter into contracts with certain shipping companies. The amendment reported by the Senate committee reads:

That section 407 of the merchant marine act, 1928 (U. S. C., title 26, sec. 891; 45 Stat. L., pt. 1, p. 694), be amended by striking out the period at the end thereof, inserting a colon, and adding the following: "*Provided, however*, That should the purchaser from the United States of a steamship line or motorship line heretofore or hereafter established by the United States Shipping Board and operated on a route certified by the Postmaster General under the terms of section 402, and with respect to which the Shipping Board shall have made a certification under the terms of section 403, make application for a contract for carrying the mails thereon, the Postmaster General, without advertisement for bids, may award a contract for such route to said purchaser, including in its terms such requirements and conditions as provided for in section 404, the compensation in no event to exceed the rate authorized by section 409, (1) if in the opinion of the Postmaster General said purchaser possesses (with the aid of the contract so awarded) such qualifications as to insure proper performance of the mail service under said contract, (2) if said purchaser shall at the time such application is made be obligated by contract to operate such steamship or motorship line upon such route, and (3) if the Shipping Board, by the affirmative vote duly recorded of four members thereof, shall determine that the awarding of the contract to such purchaser is in the public interest and will aid in carrying out the purposes of the merchant marine act, 1920, and the merchant marine act, 1928, and shall so certify to the Postmaster General: *Provided*, That not more than one ocean mail contract shall be awarded upon any route certified under the provisions of section 402, unless in the opinion of the Postmaster General the public interest will be promoted thereby.

Mr. President, I am quite sure that it is an unwise proceeding to do away with advertising, and I think I shall be able to point out to the Senate in a few moments why that is so. I have, however, offered an amendment to this bill which for the life of me I can not see how any Senator is going to vote against, and I now read that amendment:

*Provided*, That the Postmaster General shall not enter into any such contract with any person, firm, corporation, or association which is, directly or indirectly, through any subsidiary, associated or affiliated person, firm, corporation, or association, or as a holding company or through stock ownership, or otherwise, operating, or controlling the operation of, any foreign-flag ships in competition with any American-flag ships.

How can the Senate, how can any Senator, vote against an amendment that provides simply that we shall not subsidize foreign shipowners who are in competition with our own shipping? That is the proposal in this amendment, and that is the proposal that I want to have go into this bill, and I hope it may be voted into the bill.

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

Mr. MCKELLAR. I yield.

Mr. VANDENBERG. I think perhaps the Senate can visualize the issue involved——

Mr. MCKELLAR. I do not yield for a speech.

Mr. VANDENBERG. No; but will the Senator permit me to ask him a specific question as to what this proposed amendment would apply to?

Mr. MCKELLAR. Yes; I shall be very glad to have the Senator do that.

Mr. VANDENBERG. On route 39, as I understand, out of San Francisco—the Senator will correct me if I am wrong—the United Fruit Co. is the only bidder for the construction of a substantial amount of ships. Under the Senator's amendment, the United Fruit Co. would be barred from that contract. Is that so?

Mr. McKELLAR. I think so; but I am coming to that in just a few minutes.

Mr. VANDENBERG. May I complete my question to the Senator?

Mr. McKELLAR. Yes.

Mr. VANDENBERG. Does the Senator think that the only test of the utility of shipping to and from the United States is solely the question of its 100 per cent American ownership?

Mr. McKELLAR. I think that is the most substantial test, if we are going to subsidize ships at all; and it will be remembered that that was a mooted question in this country for many, many years. There are a number of Senators who, since I have been here, have devoted days and weeks and months to preventing a ship subsidy; but in 1928 a ship subsidy bill was passed, and the subsidizing is done by the Postmaster General. It is not a mail contract bill; it is a ship subsidy bill. I say that if we are going to subsidize, not only our own ships but those companies that are engaged in foreign shipping, we are going far beyond anything that anybody ever dreamed of being done heretofore.

For instance, just let me illustrate. I shall have to get the exact numbers. Take the Munson Line, about which the Senator from Michigan has just had something to say.

Mr. VANDENBERG. No; I spoke of the United Fruit Co.

Mr. McKELLAR. The United Fruit Line—take that line: They have a small number of vessels under the American flag. They have a very large number, perhaps over 100, under foreign flags; and they put a vessel in a trade in order to get this contract. Are they Americans? Is it possible that we are going to subsidize even corporations that have contracts with foreign governments?

For instance, take another company to which I will call attention, the International Mercantile Marine: That concern not only have ships under foreign flags, but, as has been disclosed by the records time and again, they have an agreement with Great Britain to-day by which their ships are to be taken over by Great Britain in time of war.

Mr. COPELAND. Mr. President——

The PRESIDING OFFICER (Mr. ROBINSON of Arkansas in the chair). Does the Senator from Tennessee yield to the Senator from New York?

Mr. McKELLAR. I do.

Mr. COPELAND. I know the Senator wants to be entirely fair. He has his lines mixed.

Mr. McKELLAR. Oh, no; I have not. The International Mercantile Marine——

Mr. COPELAND. That is not the Munson Line.

Mr. McKELLAR. I am not speaking of the Munson Line; I said "the International Mercantile Marine."

Mr. COPELAND. I understood the Senator to say "the Munson Line."

Mr. McKELLAR. No; the Senator is mistaken. I said "the International Mercantile Marine." They have a contract with Great Britain by which their ships may be taken over by Great Britain in time of war; and it may be with us. Should it be with us—I hope it never will be with us—but should it be with us, they have a contract with Great Britain by which all of their ships go to Great Britain that Great Britain wants to use; and yet, under this bill as it will go through, the Postmaster General without advertising can secretly transfer to this line, if they merely put American flags on the ships, these great subsidies.

I just can not conceive how the Senate of the United States, after knowledge of the facts, could possibly vote down an amendment that simply provides that where lines have foreign-flag ships in competition with American-flag ships, they are not to be given a subsidy by the United States Government.

We have gone far afield if we are not only going to distribute these largesses to American vessels but are going to distribute them to any foreign company or any American company sailing under a foreign flag, if we are going to give them the same benefits of the act.

Mr. COPELAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from New York?

Mr. McKELLAR. I yield.

Mr. COPELAND. The Senator doubtless is familiar with the fact that at one time the Franklin Lines—the International Mercantile Marine—had an opportunity to sell their ships. Mr. Wilson, then President of the United States, felt that it would be a great mistake to let these ships go out of American ownership, and urged the Franklin interests not to sell the ships. Immediately following this, the Shipping Board proposed to buy the ships from Franklin. The sale was all but consummated—that is, the Government had agreed to take them and the Franklin Lines to sell them—when the war ended, and the Government went back on its contract. Does the Senator feel that we have justly treated that concern?

Mr. McKELLAR. That is something entirely separate and apart from this.

Mr. COPELAND. I do not think so at all.

Mr. McKELLAR. Suppose it were true——

Mr. COPELAND. It is true.

Mr. McKELLAR. Wait one moment. I have my doubts about it. I do not mean to say that the Senator is not telling what is the fact when he says that he so understands; but I doubt very much whether the United States Government ever did any such thing. I know they did not do it unless they had the consent of the Franklin Line, because otherwise if it had been done, that company would have been right here at the Treasury of the United States seeking indemnity for violation of its contract, and we all know it.

But, suppose it had been true; that has nothing to do with this. Are we to subsidize the Franklin Line, which is under contract with the British Government in time of war to use its ships against us? It is under a written contract to do it. Are we going to subsidize a company like that? It is the purpose of the amendment I have offered to prevent a subsidy going to that company.

The same thing is true with the Munson Line. The same thing is true with the United Fruit Line. So I say that this amendment is absolutely necessary for the protection of the American Treasury and for the protection of American rights on sea and on land, too.

Now, Mr. President, let us see what is being done under this remarkable act. The shipping interests are being given subsidies; and, by the way, I am talking about American shipping companies, because I stop here long enough to ask the question. Is there any Senator on this floor who voted for this bill by which we gave subsidies in the form of mail contracts to shipping interests who thought he was voting to give them to foreign shipping interests? If so, I should like to have him get up and say so. Is there any Senator who believes that? Did any Senator vote to give a subsidy to foreign shipowners, shipowners who are conducting business under a foreign flag in competition with American ships? Is it possible that any Senator voted for that?

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

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Arkansas?

Mr. McKELLAR. I yield.

Mr. CARAWAY. That is the direct purpose of this act.

Mr. McKELLAR. To subsidize foreign shipowners?

Mr. CARAWAY. Yes.

Mr. McKELLAR. Yes; it is. Of course, that is the direct purpose of this act. That is the White bill.

Mr. CARAWAY. I take it for granted that everybody who will vote for this would have voted for the other proposal.

Mr. McKELLAR. Well, I do not know. I think they got a little bold after they got the money. This law went into effect in 1928 or 1929. It has been in effect for about a year; and they were so successful in arranging it this way that now comes along the White bill, which has been amended and is now before the Senate and is about to be voted upon, and the purpose of this bill is to do just what the Senator from Arkansas says. It is to subsidize not only American shipping companies, but those who sail under foreign flags.

Mr. CARAWAY. It is not only that, but it is to induce foreigners to buy American ships——

Mr. McKELLAR. I think it will have that effect.

Mr. CARAWAY. Because when they buy them, if they have made an application for a contract they can not be prevented from getting it.

Mr. McKELLAR. Of course; the Senator is absolutely right about it. When the Senator from Louisiana presented this bill over here, and I asked him to accept this amendment that I offered, I thought it would be accepted instantly. Listen to this wording, now. This is what I asked him to accept. I do not see how any American could have refused to accept this as a part of the bill:

> *Provided*, That the Postmaster General shall not enter into any such contract with any person, firm, corporation, or association which is, directly or indirectly, through any subsidiary, associated or affiliated person, firm, corporation, or association, or as a holding company or through stock ownership, or otherwise, operating or controlling the operations of, any foreign-flag ships in competition with any American-flag ships.

When that is voted down, if it should be voted down, what would it mean? It would mean that we put foreign-flag ships in competition with American-flag ships on precisely the same footing, and we simply give subsidies to them all.

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

Mr. McKELLAR. I yield.

Mr. CARAWAY. The provision of this bill is that there can be no readvertisement.

Mr. McKELLAR. No; no readvertisement. It is to be done secretly.

Mr. CARAWAY. If a foreign company shall buy these ships, they will get the contract, and then the bill provides that there can be no second award; in other words, that they would get the contract and get a monopoly with it.

Mr. McKELLAR. Yes; and I think I can show along that line that what has been done under this bill already is sufficient to cause the Senate of the United States to turn down the bill entirely. It ought not to be passed.

The Senator from Louisiana very adroitly appeals to me, and is going to appeal to the Senate, about a peculiar thing, and I want to call attention to it right now.

Section 402 of the act of 1928 provides that these contracts shall be distributed so as equitably to serve the Atlantic, the Mexican Gulf, and Pacific coast ports, and he says the contracts have been let so as to serve all the rest, but have not been let to serve the Gulf ports for some reason. I believe the Munson Line bid too much in one case against the Mississippi Line, which he wants to protect. If that is the case, we ought to arrange so that the Mississippi Line may be protected. I am perfectly willing to have that done if the facts the Senator states are true. I think they ought to be protected against a company which is foreign owned in part. But that is not what he does. He does not alone protect the Mississippi Line, which he seeks to protect. While he protects the Mississippi Line, he puts it absolutely into the hands of the Postmaster General secretly to let contracts to foreigners as well as to Americans; and, of course, we can not stand for that.

Mr. CARAWAY. It does not only cover shipping, it covers motor transportation. They can build up a fighting fleet and we will subsidize them.

Mr. McKELLAR. The Senator is exactly right.

Mr. COUZENS rose.

Mr. McKELLAR. Does the Senator from Michigan desire to ask a question?

Mr. COUZENS. Who is opposing this amendment? I have not heard anybody opposing it.

Mr. McKELLAR. The Senator from Louisiana is opposing it. He declines to accept it. I do not see how anybody can oppose it, and yet the Senator will find the Senator from Louisiana actively opposing it.

Mr. COUZENS. It seems to me a very reasonable amendment, and it ought to be adopted.

Mr. McKELLAR. I thank the Senator for his views in that regard. The Senator from New York also opposes it.

Mr. VANDENBERG. There is a lot of other opposition to it.

Mr. McKELLAR. Now we hear another one.

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

Mr. McKELLAR. I yield.

Mr. COPELAND. If the Senator leaves the bill as it is, the contract for carrying the mail out of the Gulf will be let to an American company, the Mississippi Steamship Co.

Mr. McKELLAR. Yes; and as the price of that the Postmaster General is to be given the authority secretly to let these contracts to whom he pleases, to foreigners as well as to Americans. That is the price, not that the Mississippi Co. would have to pay, but it is the price of those Senators who are voting for the Mississippi Co. which they will have to pay in order to obtain what this particular company wants. I do not know the facts except as I have heard them from the Senator from Louisiana [Mr. RANSDELL], but I am inclined to believe that what the Postmaster General ought to do is to say that the Munson Line, which ran up the bid against the Mississippi Line is partly under foreign control, refuse to accept the bid, and give it to the Mississippi Co. without any legislation whatsoever. But that is not what he does. He comes here and says: "All right. Put through this amendment known as the White amendment and I will give the Mississippi Line this contract, but I will have the right to give any other contract to any other people I desire, and to do it secretly."

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

Mr. McKELLAR. I yield.

Mr. FESS. I am not informed in this matter, but I was under the impression that the Postmaster General did not have any leeway to accept a bid that was higher than another. In other words, under the law he will have to accept the lowest bid. If that be the case, then he could not do what the Senator has asked.

Mr. McKELLAR. Does not the Senator believe that under the present law the Postmaster General would have the right to refuse to let this contract to a foreigner? Does not the Senator believe that under the present law the Postmaster General, if he wanted to do so, would have the right to refuse to let this contract to a company that is sailing more ships under foreign flags than under the American flag?

Mr. FESS. I do not think so, under the law.

Mr. McKELLAR. I think the Senator is mistaken.

Mr. RANSDELL. Mr. President, will the Senator yield to me to answer the question of the Senator from Ohio?

Mr. McKELLAR. I would prefer not to do so right now.

Mr. RANSDELL. The Senator has asked the Senator from Tennessee a question, and he has attempted to answer it, and he has called my name. I think he ought to do me the courtesy now to let me answer.

Mr. McKELLAR. Very well, but do not take too long.

Mr. RANSDELL. I do not take nearly as much time on this floor as some others do.

Mr. McKELLAR. Very well.

Mr. RANSDELL. In answer to the Senator from Ohio, I will say that the Postmaster General would like very much to let the contract for this particular carrying of the mail from New Orleans to Buenos Aires to the Mississippi Shipping Co., for the reason that he believes that company comes within the spirit of the merchant marine act of 1920 and 1928, in that it has bought a line of ships, that it is operating the ships under the American flag, and that it proposes to build a number of additional ships under the American flag in that line. But section 407 of the merchant marine act of 1928 is couched in such language that the Postmaster General and the Attorney General of the United States construe it as taking away from him discretion, and requiring him to let contracts to the lowest bidder. The lowest bidder was the Munson Line, and the Munson Line had not bought those ships, the Munson Line was not operating in American-flag ships from New Orleans to Buenos Aires which it had bought from the Shipping Board, and the Postmaster General would like to have the law amended so that he will have the discretion to carry out the principles of the merchant marine acts of 1920 and 1928, and he can not do that unless we give him the authority.

Mr. McKELLAR. Mr. President, in answer to what the Senator says I state that if he will limit it to this contract, all well and good, but this act goes far beyond that. I told the Senator time and again that if he would offer an amendment simply applying to this particular contract, authorizing the Postmaster General to enter into it, that upon the fact of this particular case it would be all right. But instead of that he says, "Oh, no; that is not satisfactory. We have to have unlimited authority hereafter in the Postmaster General secretly to let these contracts."

Mr. COUZENS rose.

Mr. RANSDELL. Will the Senator yield to me?

Mr. McKELLAR. In just one moment. I will yield to the Senator from Michigan first.

Mr. COUZENS. Does the Mississippi Co. operate any ship under foreign flags?

Mr. McKELLAR. No; it does not.

Mr. COUZENS. Then, why would this amendment affect it?

Mr. RANSDELL. I will try to make that clear to the Senator. The Mississippi Shipping Co. was a company operating out of the city of New Orleans a number of ships belonging to the Shipping Board, and recently, as the Senator knows, a great many of our ships have been advertised for sale by the Shipping Board. The Mississippi Shipping Co. bought some 12 or 14 of the ships which were operating in that particular trade, but it did it with the tacit understanding that the mail contract was going to be given to it. I do not say that was a binding contract.

Mr. COUZENS. Mr. President, will the Senator yield a moment? The Senator does not get my point. I am talking about the amendment offered by the Senator from Tennessee. The Mississippi Co., not operating any ships under foreign flags, would not be affected by his amendment.

Mr. McKELLAR. Not at all.

Mr. COUZENS. I do not see why the Senator from Louisiana should object.

Mr. RANSDELL. I will try to explain if the Senator from Tennessee will yield.

Mr. McKELLAR. I believe I would rather have that done later. The Senator can not explain this, that this amendment does not affect the Senator's case a particle.

Mr. COUZENS. No.

Mr. McKELLAR. The only thing it effects is to give the Postmaster General unbridled and unlimited authority simply to make such contracts in the future as he may desire to make.

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

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. McKELLAR. I think I will proceed for the present.

Mr. RANSDELL. I think I can answer that, I will say to the Senator from Michigan, but the Senator from Tennessee declines to yield.

Mr. McKELLAR. I do not believe it is possible for the Senator to explain it satisfactorily to anybody.

Mr. VANDENBERG. Mr. President, will the Senator permit me to ask one question?

Mr. McKELLAR. Certainly.

Mr. VANDENBERG. Are not two amendments being discussed at the same time?

Mr. McKELLAR. No; I have only one amendment, and that is to the bill as offered.

Mr. VANDENBERG. It does not affect the case of the Senator from Louisiana at all?

Mr. McKELLAR. Not at all.

Mr. VANDENBERG. It is a totally different amendment that affects his case.

Mr. McKELLAR. This does not affect it at all. It is just an amendment to protect the rights of the American people, American taxpayers, and prohibit the granting of subsidies to foreign companies or foreign-controlled companies.

I want to call attention to the history of this act to some extent. I want to call attention to certain contracts which have already been made.

A 10-year contract, dated July 13, 1928, has been awarded the Grace Steamship Co., for transporting mails from New York to the west coast of South America, through the Panama Canal, from which the contractor will receive not less than $645,000 annually for 26 outward voyages. The route is substantially the same service the company has maintained for many years; it has not been brought into existence by, nor is its continued existence dependent upon, this postal contract.

The line is a well-established line. The purpose of the subsidies was to help build up an American merchant marine. The Grace Line was not only in existence, but was prospering, as we all know, one of the most prosperous lines on the sea. Yet the Postmaster General makes a contract with the Grace Line involving the payment of $645,000 a year, the mail carried being inconsequential. To the Grace Line it is just that much made, it is just that much lagniappe, and that is what we are doing under the subsidy bill of 1928.

On the basis of its own financial statements, we think the Grace Steamship Co. is not entitled to the subsidy which it has been awarded. It is, of course, entitled to reasonable compensation for services rendered; that is, reasonable compensation for the actual transportation of mails by any of its vessels. It is entitled to compensation on that basis, irrespective of its earnings or its wealth, all will agree. This test has not been applied. When this test is abandoned, however, the operating deficits or earnings of the service become an important factor, and there is nothing in the 1928 act, when interpreted and applied as a subsidy, which excludes the consideration of this factor. The act merely fixes maximum rates; these, of course, can not be exceeded, even if the financial necessities are greater.

I want here to call attention to the rates as provided in the law. They are not for carrying the mail, they are for subsidizing these lines.

I call attention to section 409, as follows:

SEC. 409. (a) The rate of compensation to be paid under this title for ocean-mail service shall be fixed in the contract. Such rate shall not exceed: For vessels of class 7, $1.50 per nautical mile; for vessels of class 6, $2.50 per nautical mile; for vessels of class 5, $4 per nautical mile; for vessels of class 4, $6 per nautical mile; for vessels of class 3, $8 per nautical mile; for vessels of class 2, $10 per nautical mile; and for vessels of class 1, $12 per nautical mile. As used in this section the term "nautical mile" means 6,080 feet.

(b) When the Postmaster General is of opinion that the interests of the Postal Service will be served thereby, he may, in the case of a vessel of class 1 capable of maintaining a speed in excess of 24 knots at sea in ordinary weather, contract for the payment of compensation in excess of the maximum compensation authorized in subsection (a), but the compensation per nautical mile authorized by this subsection shall not be greater than an amount which bears the same ratio to $12 as the speed which such vessel is capable of maintaining at sea in ordinary weather bears to 24 knots.

(c) If the Postmaster General is of opinion that to expedite and maintain satisfactory service under a contract made under this title, airplanes or airships are required to be used in conjunction with vessels, he may allow additional compensation, in amounts to be determined by him, on account of the use of such airplanes or airships. Such airplanes or airships shall be American-built and owned, officered, and manned by citizens of the United States.

(d) The Postmaster General shall determine the number of nautical miles by the shortest practicable route between the ports involved and payments under any contract made under this title shall be made for such number of miles on each outward voyage regardless of the actual mileage traveled.

I read that for the purpose of inquiring whether the Postmaster General has given the maximum rate to some company formed under the plan to build up the American merchant marine, some company which flies only the American flag, some company which was contemplated by the act of 1928? Not at all; but to a company that is already well established. Its dividends are great. It is doing a splendid business. It enters into a contract for the maximum amount to carry the minimum amount of mail.

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

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from New York?

Mr. McKELLAR. Certainly.

Mr. COPELAND. It was the purpose of the act, was it not, to build up an American merchant marine?

Mr. McKELLAR. Yes.

Mr. COPELAND. We can not build up the American merchant marine without building ships.

Mr. McKELLAR. There is no contract to build ships; not any sign of a contract to build ships. This concern built some American ships and it built some ships for foreign countries. This concern is in the business of making money, and the Postmaster General makes a contract to give it $645,000 a year.

Mr. COPELAND. What line?

Mr. McKELLAR. This is the Dollar Line.

Mr. COPELAND. They have not a ship under a foreign flag.

Mr. McKELLAR. I am glad to have the Senator make that statement.

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

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Michigan?

Mr. McKELLAR. I yield.

Mr. COUZENS. Suppose a hypothetical case of this sort: Suppose an American company had 6 ships under the English flag, 6 ships under the Danish flag, and 6 ships under the American flag. Out of this subsidy they could build up the other lines, because the subsidy goes into the same pocket. Is not that true?

Mr. McKELLAR. Oh, yes; of course. Let me continue, because it is very interesting.

The Grace Steamship Co. is in foreign trade. Nevertheless, it had been maintained, profitably maintained, for many years without a subsidy and notwithstanding the competition of foreign vessels. An examination of its financial statements reveals that its operating income for the year 1927 not only exceeded operating expenses but yielded also a substantial dividend on its vessels in foreign trade. With respect to certain important factors, these statements are based on strictly business computations. "Earnings" are counted only when all expenses and charges are deducted from gross operating revenues, and therefore not only are voyage and administrative expenses deducted but also insurance and a proper percentage for depreciation.

Now, a deduction or "depreciation" is the amortizing of capital investment. In other words, the statement shows that the earnings were large enough not only to pay all expenses and yield substantial dividends but also to yield funds for replacements on a scale proportionally sufficient to meet the cost of new vessels when the present vessels are scrapped. The following statement of financial items of the Grace Steamship Co. for 1927 is based on the statements referred to:

| | |
|---|---|
| Gross revenues (incident to operations) | $5,019,000 |
| Total expenses (incident to operations) | 3,950,000 |
| Net revenues (excluding depreciation) | 1,069,000 |
| Depreciation: Deduct for depreciation on vessels involved, this deduction being the equivalent of amortization or replacement (this amount is the company's computation and is in fact excessive) | 449,000 |
| Net profits incident to the operation of 4 vessels whose book value was less than $3,000,000 | 620,000 |

Here the United States Government comes along under the terms of the law, acting through the Postmaster General, where the mails are negligible, where it probably would not cost $40,000 if paid upon a quantum meruit; here is a company that does not need help, here is a company that is building no extra American vessels; and yet the Postmaster General hands it $645,000 in the way of a subsidy.

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

Mr. McKELLAR. Certainly.

Mr. COPELAND. I dislike to interrupt the Senator, but he must not make statements such as that without consulting the record. The Dollar Line contracts for two enormous ships——

Mr. McKELLAR. The Senator has not kept up with what I am saying. I am now talking about the Grace Steamship and have been for some little time.

Mr. COPELAND. Then, let me say as to all our lines that as a result of the Jones-White Act we are now building 12 or 15 great ships, and we had not previously had a ship in an American yard since long before the war.

Mr. McKELLAR. There are ships being built, but they are not going to be built in this way.

This indicates the condition of the Grace Steamship Co. when it obtained a subsidy from the Government under the merchant marine act, 1928.

The fact the agreement is in form a contract for the transportation of mails does not change the basic fact that the transaction, in substance, is primarily a subvention; that is to say, it was not necessary for the Post Office Department to make this contract in order to assure the transportation of the mails involved. On the other hand, the Grace Line was not dependent on Government aid to assure maintenance of the service, and yet it is given a subsidy which will average considerably over $24,000 for each outward voyage, even with the vessels it is now operating, not one of which was built because of this contract having been awarded. As a minimum of 26 voyages per year is authorized, the compensation aggregates and exceeds $600,000 per annum.

That such compensation is excessive for the mere transportation of mail is revealed by the fact that from August 1, 1928, the date the terms of the contract commenced, to September 30, 1929, a period of 14 months, the total mail transported on the outward voyages involved was as follows:

| | Letters | Prints | Parcel post |
|---|---|---|---|
| | *Pounds* | *Pounds* | *Pounds* |
| United States mails | 106,750 | 929,718 | 730,070 |
| Foreign mails | 39,191 | 760,430 | 5,252 |
| Total | 145,941 | 1,690,148 | 735,322 |

The compensation fixed by the International Postal Union is less than 27 cents per pound for letters and less than 4 cents per pound for prints and parcel post; hence, the strictly commercial value of the compensation tested by the amount which would have been paid a foreign vessel is less than $137,000; and yet the Postmaster General has entered into a contract to carry these mails, which contract could be gotten from any foreign steamship line for $137,000, and is paying the Grace line $645,000 a year. That line, unless the amendment which I have offered shall be incorporated in the bill, has a right to and does come into competition with American lines.

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

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. McKELLAR. I yield.

Mr. RANSDELL. Does the Senator mean it will put in competing ships on the identical line or some other line?

Mr. McKELLAR. It depends entirely upon whether it is to the interest of that company to put it in on that line or on some other line. It is just as the Senator from Michigan said a while ago, when the subsidy is put into the common till which will build up these lines, they will build up the lines that it is to their best interest to build up. The people of the United States are taxing themselves to pay these enormous bounties or subsidies to ships that may be used against them in time of need.

Mr. RANSDELL. May I ask the Senator if it is not a fact that when that contract was entered into the Grace Co. was required to enter into a binding contract to build a large number of ships, of considerable tonnage at least, under the American flag, to be put into that trade or some other trade?

Mr. McKELLAR. I think not.

Mr. RANSDELL. Such a provision is placed in the contracts, as I understand.

Mr. McKELLAR. Oh, no.

Mr. RANSDELL. That is my understanding.

Mr. McKELLAR. The Senator is mistaken. They are not required to build. They are given the subsidy.

Mr. RANSDELL. Does the Senator state that as positive information?

Mr. McKELLAR. It will be furnished if it is not here now.

Mr. RANSDELL. I would like to see it. In the case of the United Fruit Co., which recently got some lines from the Gulf and from the Atlantic and one from the Mississippi, it received three mail contracts and it was required, before those contracts were awarded to it, to agree to build eight magnificent ships with an aggregate of over 48,000 tons, and to build them in American yards flying the American flag. Forty-eight thousand tons is a very considerable addition to our tonnage.

Mr. McKELLAR. I am glad we are getting on ground about which the Senator from Louisiana knows something. I know that he knows about the United Fruit Co. How many ships sailing a foreign flag has the United Fruit Co. and how many has it sailing the American flag?

Mr. RANSDELL. I can not tell the Senator just how many.

Mr. McKELLAR. It has 161 foreign and about 27 American.

Mr. RANSDELL. The Senator is badly mistaken. Its tonnage under the American flag is a great deal larger than that under a foreign flag.

Mr. McKELLAR. I will furnish the figures.

Mr. RANSDELL. The Senator has asked me a question, and I insist upon answering him.

Mr. McKELLAR. Very well; proceed.

Mr. RANSDELL. The United Fruit Co. has a good many ships leased under charter at the peak of the trade under foreign flags, but the bulk of its shipping is under the American flag. Then it has a foreign company through which it does business entirely between the Tropics and the Old World, and those ships are largely under a foreign flag; but they are owned by the United Fruit Co. So far as they ply in the trade of this country, if I am correctly informed, the ships are really American ships.

That great company and others are trying to increase their American-flag tonnage. They have just entered into a contract, as I said, to built eight magnificent ships in American yards, aggregating 48,000 tons, and to operate them under the American flag. They would not have entered into that contract but for the mail contracts which have been awarded to them. They could have built those eight ships in foreign yards very much more cheaply, very considerably cheaper than in our own yards, but they entered into the contract to build them here because of the advantages to them of the award for carrying the mails at a pretty good figure. These mail contracts are for the purpose of building up the shipping of this country. The Senator knows that only a few years ago but 9 per cent of our foreign commerce was carried under the American flag.

After the war we had more tonnage, but it has been diminishing. Then the Congress, in the act of 1920 and again in the act of 1928, decided to help build up the American merchant marine by awarding mail contracts. Are we not thereby helping all kinds of business in this country? Surely we are. We are going to have up to-morrow the conference report on the tariff bill, which will help various kinds of business in the country. That is all this contract is for, to help build up the American merchant marine.

Mr. McKELLAR. I hope the Senator will defer his tariff speech until another time.

Mr. RANSDELL. I hope the Senator will listen to me when I make that speech.

Mr. McKELLAR. I am thankful to the Senator for the speech he has made in behalf of the United Fruit Co., but the fact remains that a great majority of their ships are foreign ships. They use American ships in the coastwise trade because the law requires it. They could not get any business until that was done, and that is probably the only reason why the United Fruit Co. have used American ships, because they are required to fly the American flag in coastwise trade, and much of their business is coastwise trade.

The Senator from Louisiana said the subsidy is to enable this company to build new ships. It never was so stated in the act, but however that may be, this company needs no subsidy to get along. It has been declaring splendid dividends for years. It is making a great deal of money, flying the foreign flag mostly, with a few ships under the American flag where it is required by law to fly the American flag. Why should the American people be taxed these enormous sums to enable this already rich company to build, as the Senator from Michigan so well stated, American ships where it is to its interest to build them and to build foreign ships where it is to its interest to build foreign ships? Under those circumstances it seems to me that we are going a long way in giving away other people's money when we undertake to afford subsidies to companies which, to say the least, are hybrid companies—which are foreign where it is to their interest to be foreign, neutral where it is to their interest to be neutral, and American where it is required of them to be American. That is about the situation with regard to the several companies of which I am now speaking.

Mr. President, it could not have been believed that in providing a ship subsidy, a proposition which was fought successfully in the Senate of the United States and in the other

House for generations, it was intended by the Congress to subsidize foreign ships as well as American ships. That is all that this amendment guards against.

If these companies are not affiliated with foreign companies, if they are not linked with competing companies, then there can be no harm done. Why is it necessary to defend these companies if they are American companies? On the other hand, if they are not American companies, why should we tax the American people in order to give large subsidies to shipping companies which are already rich, which are already powerful, which are already successful, and which fly foreign flags more frequently than they fly the American flag? I can not believe that the Senate will ever do it until such a vote shall actually be cast.

Now, Mr. President, I wish to proceed a little further in regard to the particular contract which I was discussing when interrupted, namely, the contract with the Grace Steamship Co.

The law of 1928 authorizes a higher payment to American vessels for carrying the United States mails. By the way, that throws much light on the subject. The company in question flies the American flag under the subsidy because thereby it can obtain greater compensation. The law authorizes 80 cents per pound for letters and 8 cents per pound for prints and parcel-post matter, which rates themselves are subsidizing rates because they are greatly in excess of the strictly commercial value of the transportation; but even on that basis for the United States mails the total amount earned for all mails carried would have been less than $250,000; and yet the company received $645,000. The total amount, in fact, received under the contract for the sailings involved were $763,000. The extent by which that amount exceeds the strictly commercial value of the transportation is clearly a subsidy. Hence that portion of the $763,000 which thus constitutes a subsidy is more than $625,000 for the brief period of 14 months. The company enjoys a 10-year contract. How much, therefore, is involved? Under the 10-year contract, according to this bill, without my proposed amendment, the Postmaster General, if he so desires, can secretly enter into a contract involving over ten times $625,000, or a total of $6,250,000.

Mr. RANSDELL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Louisiana?

Mr. McKELLAR. I will not yield for a speech, but I will yield for a question.

Mr. RANSDELL. I will ask the Senator a question. Does the Senator think a contract can be entered into secretly when one of the conditions precedent is?—

> If the Shipping Board, by the affirmative vote duly recorded of four members thereof, shall determine that the awarding of the contract to such purchaser is in the public interest and will aid in carrying out the purposes of the merchant marine act, 1920, and the merchant marine act, 1928, and shall so certify to the Postmaster General.

How can there be any secrecy if the Shipping Board is obliged in such a public manner by affirmative vote of four of its members to certify that the contract is in the public interest?

Mr. McKELLAR. Yes; and if the Senate of the United States wanted to secure from the Shipping Board and the Postmaster General the facts about any particular contract it would almost have to use a jimmy. If the Senator has ever tried to obtain such information from the Shipping Board he will know what a difficult process it is, and if he has never tried to obtain it, I suggest that he try and he will ascertain that he will not get it.

When the beneficiary is earning good dividends without Government aid obviously a subvention is unnecessary, even when subventions, in proper cases, are authorized by law.

Under this bill we would be authorizing the Postmaster General, without advertisement, without publicity, but secretly, to enter into any contracts that he desired, carrying enormous subsidies to shipping companies not for the purpose of transporting American mails but merely as subsidies to companies that are flying foreign flags more often than they are flying the American flag.

The figures cited demonstrate that the Grace Steamship Co. was not entitled to a subsidy for the route in question, and certainly it was not entitled to so large a subsidy, if any. It secured this unusually lucrative contract under circumstances substantially as follows: An advertisement of the postal route was inserted, the terms of which were such that one company, and one company only, namely, the Grace Steamship Co., could comply. Was that a proper kind of advertisement? Was that a real effort to obtain competitive bids? Mr. President, just think of giving $6,250,000 to a steamship company which is already rich, which is already powerful, which does not need a subsidy, under such circumstances that with the terms of the advertisement only one company could comply, namely, the Grace Steamship Co.! And yet the Senator from Louisiana desires to allow the Postmaster General to award such contracts without any advertisement, without any publicity of any kind whatsoever. Such a position can not be sustained.

Mr. President, speaking of publicity, the Senator says the contracts will be open to everybody if the Shipping Board and the Postmaster General shall have the right to enter into them. Has any Senator ever heard of this contract with the Grace Steamship Co.? Has the Senator from Louisiana [Mr. RANSDELL] ever heard of this contract which was awarded by the Postmaster General and the Shipping Board after an advertisement, mind you, under which only one bidder could bid. Was the advertisement so framed that a bid could be submitted by some enterprising young company such as the Mississippi Co., by some company which had bought ships from the Shipping Board and which it was desired to help get on their feet or get on the water, so to speak? Not at all. The advertisement was so worded that only one company could bid under it, and that was the great and powerful Grace Steamship Co. which did not need the largess of the subsidy. Such a proceeding is indefensible.

Knowing the circumstances, a bid was presented by the Grace Co., naming the maximum compensation the law authorizes for the class of vessels involved. Talk about competition in bidding! Mr. President, this company was so sure of itself that it bid a sum six times higher than under ordinary circumstances it would have been willing to accept for carrying the mails. Does anybody believe that there was any competition about that? Does anybody believe that there was that fair and just competition which was contemplated by Congress when it passed the act? Not at all.

The Post Office Department then apparently reasoned: The route has been advertised; a bid has been received; it is the lowest bid, let the contract be awarded! The fact that it was the only bid, and that the bidder knew with practical certainty, in advance of the bid, that it would be the only bid, the fact that it was for the maximum authorized by law and for an amount greatly in excess of reasonable compensation for the transportation service rendered, and the fact that, even from the viewpoint of a subsidy, the earnings of the bidding company were so large that such Government aid was unnecessary to assure its maintenance, all appear to have been regarded as uncontrolling. What difference did such considerations make to the department? Was the contract awarded in order that ships might be built? Oh, no. There was nothing in it in relation to the building of ships. What was its purpose? I hesitate to say what I think was the purpose of that contract.

Think of such a contract! The advertisement for it was so worded that only one company could bid, and that company was allowed to bid the maximum under the law. It was allowed to bid $763,000 for carrying the mails, whereas $137,000 would have been a reasonable price for the undertaking. The advertisement was worded in such a way that the Grace Co. was the only bidder, and yet it is proposed now to do away with publicity; it is proposed to allow the Postmaster General and the Shipping Board to get together behind closed doors, if need be, and let the contracts to any kind of a bidder they may select, without let or hindrance, without regard to the rights of the people, and without regard to taxing the people. Such a proposal, in my opinion, can not be defended.

I feel in regard to this as I did the other day concerning the old Federal soldier who wanted to continue at work for the Government. The amendment was not in order that would have protected him, but I would not have believed then that a single Senator in this body would have opposed it if I had not been so assured; and so if I had not been assured by the Senator from Louisiana [Mr. RANSDELL] and by the Senator from New York [Mr. COPELAND] and the Senator from Michigan [Mr. VANDENBERG] that they intended to vote against this amendment, I would not believe that any Senator would oppose an amendment which simply provides that subsidies shall not be given to foreign vessels or foreign-controlled vessels in competition with American vessels—and that is all my amendment provides.

By the way, I think there is investigation of this very subject going on now. At any rate, there will be such an investigation if the Senator from New York ever gets to the point where he will have considered the motion to reconsider a resolution which has already been adopted by the Senate. In that event there will be an investigation of these very contracts.

I am informed—I do not know how true it is—that substantially all contracts have been awarded at maximum rates under the law; in other words, there have been no contracts awarded at the minimum rates. There may not be a hamper or basket full of mail to carry, but the maximum rates are allowed as if mail in large volume was being carried. There may not be a

dozen letters transported by a given line, and yet thousands of dollars are allowed by way of compensation because the law allows that to be done.

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

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from New York?

Mr. McKELLAR. I yield.

Mr. COPELAND. How are we going to build up an efficient merchant marine and American steamship lines unless by some system such as the Senator calls a bounty system those lines shall be given encouragement and induced to build ships?

Mr. McKELLAR. The answer to the Senator's question is in the record. It is that the Munson Line and the International Mercantile Line and the United Fruit Co., which are the factors in the situation which it is intended here to correct, have already been built up; they are already doing well; they are already prosperous; they were already paying large dividends; they were building new ships whenever they needed new ships before the law had ever been enacted, and what has been given by the Postmaster General to those lines has merely enabled them to add to their already excellent profits.

Mr. COPELAND. The Senator is wrong.

Mr. McKELLAR. Oh, no, I am not. I have just read it to the Senator. If he had listened, he would have heard it.

Mr. COPELAND. I have listened to the Senator, and I have been much interested and entertained; but the fact is that the reason why some of these lines have built ships under foreign flags is because they could do it so much more cheaply. They could operate them under the low standards used by foreign bottoms. They could enter into competition with any of our ships on terms that would make it impossible for ours to compete; but any line that is given a mail contract must first enter into a contract to build new American ships—built in American shipyards, under American conditions—to employ American sailors, and to build up the American merchant marine. That is the purpose of the mail subsidy plan.

Mr. McKELLAR. The Senator will find that he is very much mistaken. These companies build foreign ships when it is cheaper for them to build foreign ships. They build American ships when they have to in order to get the subsidy.

The award of maximum rates under the circumstances mentioned can not be upheld merely by the fact that the act mentions such rates. They are mentioned only as the maximum. It does not intend, and the law will not permit, the Government to be cornered merely because bids are invited and there is but one bid. A bid based on specifications prepared in entire good faith, but with which only one person can comply, is not a competitive bid. There is not a court in this country that would hold that such a bid is a competitive bid.

Talk about competitive bids! Why, these contracts have not been let upon competitive bids at all. Some few of them may have been let on competitive bids, but those which I have here have not been let on a competitive basis at all, simply because they said the bidder under such circumstances was the lowest bidder.

Mr. President, to award the contract to such a bidder under the circumstances at the highest rate of compensation possible, and without applying either the test of reasonable compensation or the test of the financial necessities of the service, presents a seemingly incredible situation; yet a document has been signed purporting thus to bind the Government for a period of 10 years. Through that period, should the contract be continued that long, there will be paid to the Government more than $7,000,000. To build ships? Not at all. Because the line is necessary? Not at all. Because it is going to build up the American merchant marine? Not at all. Because this company is needed? Not at all. For the purpose of carrying the mails? Not at all. It is purely incidental. They have this contract, and this concern makes $7,000,000 by the contract.

The Senator says that this is done for the purpose of letting us build American ships in American yards. Listen to this: The fact that two new foreign-built vessels have been put on this route by the contractor has no bearing upon the merits of the case. They are not the result of the contract. Both of them were ordered and were nearly completed prior not only to the mail contract, but prior to the passage of the act of 1928 itself. Furthermore, these two new vessels were built in Europe. Notwithstanding the fact that they were not built in America, they are being put into this service at the maximum rate; and that is what Senators are going to vote for when they vote against this amendment. They are going to vote to subsidize two vessels that were built in foreign yards, built by foreigners, brought here and put into the American trade for the purpose of obtaining the subsidy of $7,000,000.

As I said, these new vessels were built in Europe. Notwithstanding they were not built in America, they are being put into this service at the maximum rate for vessels of their speed and size. By the way, the rates are increased when they are good vessels. When they are fast vessels, the rates are increased. They get more. They can build a better ship, more cheaply, in European yards than in American yards.

Mr. COPELAND. Not a better one.

Mr. McKELLAR. They can build it for much less money. They can build it faster for the same money; and after having built it, they bring it over here and get subsidies. Why? Because they have a few ships that are flying the American flag in coastwise shipping. They can not fly any other flag in coastwise shipping, and that is the only reason they are flying the American flag in coastwise shipping. I have looked for the next amendment to the merchant marine act to be an amendment permitting foreign vessels to do coastwise shipping; and there is some sentiment for it among the great international shipowners. They want it done. That would be the last straw, indeed! Here we are subsidizing them, giving them American money to build these ships in foreign ports, where they do our people no good.

The fact that the act of 1928, by an exception, qualified certain vessels then in process of building in foreign yards, does not mean that such vessels should necessarily receive the maximum rate. The award of the maximum rate to these foreign-built vessels can not be attributed to the provisions of the act. As the high cost incident to American construction was not incurred in their construction, a rate lower than the maximum could have been applied; for an equitable administrative discretion unquestionably exists.

Now, Mr. President, I come to the next concern, the Export Steamship Corporation. Is anybody familiar with that corporation? The Senator from New York [Mr. COPELAND] says he is. Does that concern fly the American flag on all its vessels, or some foreign flags and some American flags? I will not ask the Senator the question, because I do not want to embarrass him.

A 10-year contract dated July 13, 1928, was executed with this company. They are doing pretty well. The act became a law May 22, 1928. By July it was in operation. The Postmaster General had already advertised, so that bids of some sort were received, one bid for one line and another bid for another line; and here is what happened under date of July 13, 1928, in less than 60 days. I can hardly understand how they could have done that. The President did not sign the act until May 22, and they certainly should have had a couple of weeks to advertise or to look into the question of routes, unless they had it already planned beforehand. They advertised and let a contract on July 13. It was awarded to the Export Steamship Corporation for transporting mails from New York to various Mediterranean ports, from which the contractor receives over $1,000,000 per annum for 84 voyages.

The compensation by the Government, therefore, exceeds $12,000 for every outward voyage. This subsidy is paid notwithstanding the operating deficit for each such voyage has averaged less than $3,750 for the last three years.

No wonder these affiliated foreign lines, flying sometimes the American flag and sometimes the British flag and sometimes the Danish flag and sometimes the Norwegian flag, want these mail contracts! Their average deficit for each voyage was $3,750, and under this compensation they get $12,000 from the Government for each voyage.

The grant of this contract did not originate the service. The company purchased the vessels and the line from the board. By the terms of the sale, it guaranteed to maintain this service for a period of years yet unexpired. This contract was, therefore, unnecessary as an instrument to secure such transportation. So far as the physical movement is involved, this was assured entirely apart from the existence or nonexistence of this line; for the normal transportation of mails, especially of first-class mails, is by trans-Atlantic liners, thence by rail or water to the Mediterranean Basin. We all know that that is so.

What is here done? Here is a line of ships that were sold to this company for practically nothing, probably about one-tenth or one-fifteenth or perhaps one-twentieth of the original cost of the ships, and under it they contracted to maintain the line for so many years. This postal contract was not necessary; and yet here they come along and get $12,000—just that much given to them—and whether they are interested in other flags in other countries, I do not know.

I have some information here which says that the compiler is not opposed to a subsidy. I am. I do not believe American shipping will ever be built up under a subsidy administered as this subsidy is, and I doubt if it is ever built up under any kind of subsidy. We on this side of the aisle have voted against subsidies for many years. I remember on one occasion, if I recall the time aright, right here at one of these near-by

desks I spoke for 8 hours and 23 minutes for the purpose of killing what I deemed an infamous subsidy bill, and it died that night. No wonder; that was enough to kill it. I admit it myself; but it killed it. We Democrats have been opposed to it all along the line, and yet we have one of the most infamous subsidy measures that could possibly be imagined.

This company had previously received a large subvention in the low-sales prices of vessels here involved, the sales prices no doubt having been placed far below the normal market value of the vessel to offset possible deficits under the guarantee of their operation. The vessels were sold the contractor at a price which averages less than $61,000 each. They were built by the Government at an average cost of $1,600,000 each. That is to say, the cost to the Government for building one vessel was greater than the total sales price of all the vessels. On the other hand, the construction cost to the Government exceeded normal construction cost, and an allowance should be made accordingly in determining their initial value; and, of course, allowance for depreciation should be deducted from the date of construction—1919—to the date of sale—1925. These factors are not mentioned as a final index of their market value in 1925, for the market value of shipping had seriously declined. These facts, however, reveal the type, size, and make of vessel thus sold at the nominal price of $61,000 each.

The contract of sale provides alternate prices for the vessels sold, viz, $7.50 per hundredweight, or a total of $1,262,227 for all the vessels, on the basis of guaranteed operation; and $24.70 per hundredweight, or a total of $4,158,373 for all the vessels, if the guarantee is not kept. The difference of $2,896,146 is in fact a subvention, intended as an offset to the deficits, if any, resulting from the operation of the fleet in accordance with the guarantee. Here the American Government had already given over $2,000,000 subsidy to this line, and then it comes along, long after the line was established and the contract made, and gives another subvention of $12,000 a voyage! At the end of the guarantee period, the owner is free to sell.

By the way, talking about building up American ships, in five years all these vessels can be sold to foreigners or to anybody they please to sell to. The guarantee to maintain them is for only five years. How can we possibly hope to build up a merchant marine under any such circumstances as that?

Any deficits accruing through that period must be credited with any profit derived from the sale of the vessels; only then can it be determined whether the transaction as a whole has or has not been profitable, even if no other subsidy is awarded.

In actual returns, what does the Government receive from the contract? The amount of mail, in fact, transported is negligible; for instance, from August 1, 1928, to April 30, 1929, 12 pounds of first-class mail, 3 pounds of prints, and 503,619 pounds of parcel post was carried, 66 trips having been made in the nine months' service thus rendered.

Think of this, now. We are paying $12,000 a voyage to carry how much mail? I repeat, 12 pounds of first-class mail, 3 pounds of prints, and 503,000 pounds of parcel post.

Twelve thousand dollars would pay for it all for a whole year, and yet the Government gives $12,000 a voyage for what would amount to about a pound of letter mail a voyage, and about one-eighth of a pound of print mail a voyage, and about 40,000 pounds of parcel post. But it is even worse. If we just divide the amount by 66, the number of voyages, we will find that the amount was so very small that it would be negligible. It would not be one-fiftieth part of a letter to carry, which we are paying $12,000, virtually. We already have contracts for carrying the mails across the ocean. This is just subterfuge. It ought never to have been allowed. No business man in this country would have ever permitted a contract of this kind to be entered into, and yet it costs us in excess of $1,000,000 a year.

Mr. COPELAND. Mr. President, is the Senator still speaking of the Export Line?

Mr. McKELLAR. I am still speaking of the Export Line.

Mr. COPELAND. Those are all American ships?

Mr. McKELLAR. Yes.

Mr. COPELAND. Bought from the Shipping Board?

Mr. McKELLAR. Yes. The Shipping Board virtually gave them away, the price was so small.

Mr. COPELAND. Yes; they did. I heard a very prominent citizen, a former chairman of the Republican National Committee, say that if he had his way, he would take those ships out and sink them at sea. So if they are so useless as that, no matter how little they paid for the ships, they have rendered an important American service. They are going into the Mediterranean, and I remember in the Senator's own State how eager the people were to have those coal-carrying ships.

Mr. McKELLAR. Yes; but we can not get them now under this administration, with private ownership, subsidized shipping. We can not get them in the Gulf at all when we need them now. We can only get them when they all get together and say that we can have them. We have not a right to demand them.

I remember that the private shipping companies would not give us ships to carry our cotton abroad; and what did we do? We came and asked the Shipping Board for assistance, and as I remember at first the Shipping Board declined to give us ships, in concert with private interests declined to do it, and some of us—I know I was one—sent telegrams to every Senator in this body urging them to telegraph the Shipping Board and demand that they give us ships for the purpose of carrying American products abroad, and Senators came to our rescue. I remember the Senator from Washington [Mr. JONES] sent a strong telegram, I think the Senator from New York [Mr. COPELAND] sent a strong telegram, and in that way we overcame the so-called better judgment of the Shipping Board and got the ships. That can not be done now under the present arrangement.

Mr. COPELAND. If the Senator will bear with me, he will recall that the occasion of that need was the coal strike in England, when English bottoms were used in transporting coal from the Continent to England.

Mr. McKELLAR. That was one of the reasons.

Mr. COPELAND. The result was that American grain and American fruit, American citrus fruit, American products generally, were piled up on the docks.

Mr. McKELLAR. Yes; and cotton and lumber.

Mr. COPELAND. And cotton and lumber.

Mr. McKELLAR. And corn and wheat.

Mr. COPELAND. It was the aid given by the Shipping Board that made it possible to meet that emergency.

Mr. McKELLAR. No; it was the aid given through the influence and almost through the coercion of United States Senators, acting individually and collectively.

I remind the Senator that the Shipping Board said that they were under some sort of contract with private shipowners under which they could not supply the ships, and that they would not be showing good faith if they sent American vessels, owned by the American Government, to American ports to carry American products to be sold abroad. Yet through the influence of the Senate of the United States it was done.

Mr. COPELAND. Mr. President, I did join the Senator.

Mr. McKELLAR. Yes; I sent the Senator a telegram, and he responded promptly, and I thank him even at this late date.

Mr. COPELAND. I want to reword my statement. It was because we had American ships——

Mr. McKELLAR. Owned by the American Government.

Mr. COPELAND. It was because we had American ships that we were able to meet that emergency. Is it not wise for us to have out of every port in the United States lines of ships operating all the time, so that there shall never be another emergency like that?

Mr. McKELLAR. Of course, I agree entirely with the Senator, but when we undertake to subsidize foreign lines, when we spend the American people's money to subsidize foreign lines, we will never have American ships to carry American products abroad when we need them. I agree with the Senator that if we could build up American lines it would be well, and the purpose of my amendment to this bill is to see to it that American lines, controlled by American people, and not controlled by foreign shipping interests, shall be built up.

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

The PRESIDING OFFICER (Mr. JONES in the chair). Does the Senator from Tennessee yield to the Senator from New York?

Mr. McKELLAR. I yield.

Mr. COPELAND. Does not the Senator think that a monopoly is just as bad whether it is an American monopoly or a foreign monopoly?

Mr. McKELLAR. No. I do not believe in monopolies at all, and not long ago, during the consideration of the tariff bill, I had to choose between an American monopoly and a foreign monopoly, and, as the Senator will recall, I chose the American monopoly. I think American monopolies are better than foreign monopolies.

FEDERAL PROBATION OFFICERS

The PRESIDING OFFICER. The Chair lays before the Senate a concurrent resolution of the House of Representatives and calls the attention of the Senator from Oregon [Mr. McNARY] to it.

The concurrent resolution (H. Con. Res. 34) was read as follows:

*Resolved by the House of Representatives (the Senate concurring)*, That the President be requested to return to the House of Representa-

tives the bill (H. R. 3975) to amend sections 726 and 727 of title 18, United States Code, with reference to Federal probation officers, and to add a new section thereto.

Mr. McNARY. I move that the Senate concur in the resolution of the House.

The motion was agreed to.

ADDITIONAL LAND FOR LIBRARY OF CONGRESS

Mr. FESS. In the procedure of the condemnation of property for the site of the Library of Congress there was a mistake in citing the law. From the Committee on the Library, I report back favorably without amendment the bill (H. R. 11433) to amend the act entitled "An act to provide for the acquisition of certain property in the District of Columbia for the Library of Congress, and for other purposes," approved May 21, 1928, relating to the condemnation of land, and I ask for its present consideration.

There being no objection, the bill was read, considered, ordered to a third reading, read the third time, and passed, as follows:

*Be it enacted, etc.*, That the last sentence of section 2 of the act entitled "An act to provide for the acquisition of certain property in the District of Columbia for the Library of Congress, and for other purposes," approved May 21, 1928, is amended to read as follows: "Any condemnation proceedings necessary to be instituted under the authority of this act shall be in accordance with the provisions of the act entitled 'An act to provide for the acquisition of land in the District of Columbia for the use of the United States,' approved March 1, 1929 (U. S. C., Supp. III, title 40, ch. 7)."

MEMORIAL TO THEODORE ROOSEVELT

Mr. FESS. The Senator from Montana is not present, but he is very much interested in a report I am about to make from the Committee on the Library. I report back from that committee favorably without amendment the bill (H. R. 9412) to provide for a memorial to Theodore Roosevelt for his leadership in the cause of forest conservation, and I ask unanimous consent for its immediate consideration.

There being no objection, the bill was read, considered, ordered to a third reading, read the third time, and passed, as follows:

*Be it enacted, etc.*, That the Secretary of Agriculture is authorized and directed to erect a suitable archway spanning the Theodore Roosevelt International Highway on the continental divide at the summit of the Rocky Mountains on the boundary between the Lewis and Clark National Forest and the Flathead National Forest in Montana in commemoration of the leadership of Theodore Roosevelt in preserving the forest resources of the United States: *Provided*, That said archway shall be erected during the year 1930, which is the twenty-fifth anniversary year of the forming of the present Forest Service: *Provided further*, That there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $25,000 for the purposes of this act.

SEC. 2. That the plan and design of such archway shall be subject to the approval of the National Commission of Fine Arts.

SEC. 3. The Secretary of Agriculture is authorized to do all things necessary to accomplish said purpose, by contract or otherwise, with or without advertising, under such conditions as he may prescribe, including the engagement, by contract, of services of such architects, sculptors, artists, or firms or partnerships thereof, and other technical and professional personnel as he may deem necessary without regard to civil-service requirements and restrictions of law governing the employment and compensation of employees of the United States, and to spend in accordance with the provisions of this act such sum of money as may be placed in his hands as a contribution additional to the funds appropriated by Congress.

RECESS

Mr. McNARY. I move that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to; and the Senate (at 4 o'clock and 55 minutes p. m.) took a recess until to-morrow, Tuesday, May 27, 1930, at 12 o'clock meridian.

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## NOMINATIONS

*Executive nominations received by the Senate May 26, 1930*

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Hanford MacNider, of Iowa, to be envoy extraordinary and minister plenipotentiary of the United States of America to Canada.

APPOINTMENTS AND PROMOTIONS IN THE NAVY

The following-named citizens of the States indicated opposite their names to be assistant surgeons in the Navy, with the rank of lieutenant (junior grade), to rank from the 3d day of June, 1930:

Benjamin E. Twitchell, a citizen of Illinois.
Charles L. Ferguson, a citizen of North Carolina.
Arthur W. Eaton, jr., a citizen of Colorado.
Cecil H. Coggins, a citizen of Pennsylvania.
William M. Silliphant, a citizen of California.
Robert W. Babione, a citizen of Ohio.
Richard C. Young, a citizen of Connecticut.
Allan S. Chrisman, a citizen of North Carolina.
Calvin B. Galloway, a citizen of Michigan.
Orville W. Cole, a citizen of Oklahoma.
James E. Reeves, a citizen of Georgia.
Frank P. Kreuz, jr., a citizen of Michigan.
Burr Dalton, a citizen of Minnesota.
Walter A. Coole, a citizen of Texas.
James R. Reid, jr., a citizen of South Carolina.
Homer C. Pearson, a citizen of Georgia.
Eric D. Pearson, a citizen of Oregon.
Austin J. Walter, a citizen of West Virginia.
Eugene V. Jobe, a citizen of Mississippi.
Charles V. Hatchette, a citizen of Alabama.
Albert H. Staderman, a citizen of Ohio.
Paul M. Crossland, a citizen of Minnesota.
James E. Amiss, a citizen of Virginia.
Alton C. Abernethy, a citizen of Oklahoma.
Earl F. Evans, a citizen of Louisiana.
Edward W. Jones, a citizen of California.
Charles B. Fulghum, a citizen of Georgia.
Clifford D. Hamrick, a citizen of West Virginia.
Walter H. Schwartz, a citizen of Iowa.
Julius E. West, a citizen of Virginia.
John L. Cardwell, a citizen of the District of Columbia.
Armand J. Pereyra, a citizen of California.
George N. Raines, a citizen of Mississippi.
David N. McInturff, jr., a citizen of Oregon.
George W. Wright, a citizen of Nebraska.
William V. Clark, a citizen of Alabama.
Edward T. Knowles, a citizen of California.
David M. Segrest, a citizen of Mississippi.
Harold W. Lashier, a citizen of California.
William A. Deckert, a citizen of Maryland.
David H. Davis, a citizen of Kansas.
Lyle A. Newton, a citizen of Nebraska.
James L. Holland, a citizen of Mississippi.
George F. Blodgett, a citizen of Arkansas.
John C. Troxel, a citizen of Indiana.
Judson A. Millspaugh, a citizen of New York.
Arthur J. Horton, a citizen of New York.
Alfred W. Eyer, a citizen of Delaware.
John T. Smith, a citizen of New York.
Martin V. Brown, a citizen of Illinois.
Frank J. Gillette, a citizen of Wisconsin.
Robert D. Crawford, jr., a citizen of Alabama.
Joseph V. Land, a citizen of Illinois.
Cecil L. Andrews, a citizen of Indiana.
Walter L. Taylor, a citizen of California.
Oran W. Chenault, a citizen of Arkansas.
David C. Gaede, a citizen of Illinois.
Robert A. Cooper, a citizen of Minnesota.
Francis A. Brunson, a citizen of South Carolina.
Cecil D. Riggs, a citizen of Utah.
James W. Shumate, a citizen of Arkansas.
Jerry T. Miser, a citizen of New Mexico.
Phillip S. McLennan, a citizen of Georgia.
Edwin B. Coyl, a citizen of California.
Ralph K. Hoch, a citizen of Delaware.
Freeman C. Harris, a citizen of Illinois.
Thomas L. Allman, a citizen of Virginia.
Raphael L. Weir, a citizen of Illinois.
Edgar L. Nefflen, a citizen of West Virginia.
Otto W. Wickstrom, a citizen of Indiana.
Sol B. Estes, a citizen of Texas.
Elmer L. Caveny, a citizen of Georgia.
Gordon H. Ekblad, a citizen of Minnesota.
John A. Workman, a citizen of Pennsylvania.
Albert C. Traweek, jr., a citizen of Oklahoma.
Albert H. Held, a citizen of Indiana.
Ernest C. Aulls, a citizen of Florida.
Robert C. Boyden, a citizen of North Dakota.
Robert C. Douthat, a citizen of Missouri.
Robert D. Knapp, a citizen of Montana.
Edward P. Madden, a citizen of Colorado.
Clifford F. Storey, a citizen of Louisiana.
Julius C. Early, jr., a citizen of North Carolina.

Passed Asst. Paymaster Harry M. Mason to be a paymaster in the Navy, with the rank of lieutenant commander, from the 7th day of January, 1930.

Gunner Robert D. Carmichael to be a chief gunner in the Navy, to rank with but after ensign, from the 18th day of October, 1929.

## HOUSE OF REPRESENTATIVES

### MONDAY, *May 26, 1930*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Eternal God, in drawing near to Thee with the understanding mind may we in disposition and inward likeness be worthy children of Thine. Guide our steps and keep our heartstrings in tune. Let us not only look for Thee on the pages of books, pressed on the systematic leaves of history, but far, far better, may we find Thee in the sweet aroma that mellows and softens daily living. Bless us with the spirit that sings the song of unselfishness and chants the anthem of duty. Here is work to be done by lovers of industry, of character, of country, and of fine reputation; but we often love imperfectly. Do Thou direct the springs of action and uncoil the best forces in us which have been coiled by the hands of the Almighty. We pray in the name of our divine Lord. Amen.

The Journal of the proceedings of Saturday, May 24, 1930, was read and approved.

PROBATION OFFICERS—RETURN OF A BILL

Mr. GRAHAM. Mr. Speaker, I ask unanimous consent for the present consideration of a resolution, recalling a bill from the President's hands, to correct an error in it, which I send to the desk and ask to have read.

The Clerk read as follows:

House Concurrent Resolution 34

*Resolved by the House of Representatives (the Senate concurring)*, That the President be requested to return to the House of Representatives the bill H. R. 3975, entitled "An act to amend sections 726 and 727 of title 18, United States Code, with reference to Federal probation officers, and to add a new section thereto."

Mr. GRAHAM. Mr. Speaker, I want to say a word first in explanation of this resolution. This bill was offered originally in the previous Congress and passed the House, but failed in the Senate. It was reintroduced in this Congress and passed the House after having been referred to the Attorney General and after having been passed unanimously in the committee. It passed the Senate and was messaged to the President. In the Department of Justice they pointed out the fact that the bill was referred to in the title as an amendment to the United States Code. It is contended that the code is not the law, that the amendment ought to have been directed to the original law, and it is simply to correct that reference in the title that this resolution is offered. My own opinion is that the bill would be perfectly sound and good, standing as it is, but the Bureau of the Budget said this morning that the appropriation which is sought would not be made unless this correction be made in the bill. Hence this resolution.

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

There was no objection.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

PENSIONS

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 12205, granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, with Senate amendments thereto, disagree to the Senate amendments and ask for a conference.

The SPEAKER. The gentleman from Minnesota asks unanimous consent to take from the Speaker's table the bill H. R. 12205, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference. Is there objection?

There was no objection.

The Chair appointed the following conferees: Mr. KNUTSON, Mr. KOPP, and Mr. BOX.

REFUND OF TAXES

Mr. GARNER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting some data that I have secured with reference to the refund of taxes, and in that connection may I take one minute to say that I think the House will recall that at the time we discussed the Steel Corporation $33,000,000-tax refund, my contention, and the contention of Mr. COLLIER, and others of the minority, was that it should have gone to the courts so that the courts could pass upon the legal questions involved. Within two weeks of the time I made that statement, the Court of Claims passed upon the identical question involved there, and unanimously held against the position of the Treasury Department. If the interpretation of the Court of Claims of the law had been applied to the Steel Corporation refund, it would have saved on one transaction $9,000,000, and on the entire transaction about $26,000,000. This decision was rendered by our former colleague, Mr. Williams, of Illinois, and it will also be remembered that on that court there is also Judge Green, the former chairman of the Ways and Means Committee. I call the attention of the House to this to illustrate the importance, in my opinion, of considering these questions from a nonpartisan standpoint. If this matter had been considered from a nonpartisan standpoint, in my opinion, the Steel Corporation's refund would never have been approved by the joint committee.

Mr. CHINDBLOM. Mr. Speaker, will the gentleman yield?

Mr. GARNER. Yes.

Mr. CHINDBLOM. Does the document the gentleman asks to have printed in the RECORD set up sufficient facts to show that the two cases are identical?

Mr. GARNER. I think they do. I use my own argument, but the gentleman can go to the decision of Mr. Justice Williams, and he will easily see the analogy. The gentleman will remember that I called attention to the fact that there were, as I recall it, one hundred and ninety and odd children of the United States Steel Corporation. They made profits one from another, and this juggling of their profits is what brought about this situation. The Packard Motor Co. had the same sort of transaction. They juggled theirs in the same way, but the Court of Claims did not allow that. They went to the Court of Claims, and the Court of Claims held that they had no case.

Mr. CHINDBLOM. The gentleman has asserted that the two cases were analogous or similar. The point I wanted to bring out was whether the document would show that the two cases were similar.

Mr. GARNER. In my opinion it will show that.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GARNER. Mr. Speaker, under leave to extend my remarks in the RECORD I desire to call attention to the fact that the failure of the Treasury Department to contest in the courts the tax-refund claims of the United States Steel Corporation has resulted in a direct loss to the Government of at least $9,000,000, and possibly $26,000,000.

This loss is made evident by the recent decision of the United States Court of Claims in the case of the Packard Motor Car Co. against the United States, in which were involved the same issues upon which part of the recent refund of $33,000,000 to the United States Steel Corporation on 1918 taxes were based.

Application of the same principles to the $26,000,000 refund to the United States Steel Corporation on the 1917 taxes would have saved the Government $17,000,000, and, in my opinion, the Treasury Department has been guilty of gross negligence in its failure to bring these controverted matters into the courts.

One of the points at issue in the case of the United States Steel Corporation was the elimination of intercompany profits from the 1918 inventory. This point was conceded in favor of the steel corporation by the Treasury Department and the majority members of the Joint Committee on Internal Revenue Taxation. On April 7 the United States Court of Claims handed down a unanimous decision on this point in the Packard Motor Co. case, showing clearly and indisputably that the rule used by the department was wrong. If the rule laid down by the Court of Claims had been followed in the steel case, we would have saved $6,000,000 in principal and $3,000,000 in interest. If the same rule applies to the $26,000,000 refund of 1917 taxes to this corporation—and I am convinced that it does—we would have saved $17,000,000 principal alone by taking the case into court.

Last March I called the attention of the House to the $33,000,000 refund of 1918 taxes, and my contention was that there were enough controverted matters which had not been adjudicated by the courts or the Board of Tax Appeals to demand that the Treasury Department go into the courts and permit them to adjudicate what we owed, if anything, to the United States Steel Corporation. As a minority member of the Joint Committee on Internal Revenue Taxation I have con-

sistently opposed the granting of these enormous refunds without a decision of the courts.

The gross negligence of the Treasury Department in granting these enormous refunds to the United States Steel Corporation without a court decision has resulted in the loss of $9,000,000 in this one case alone, and it is impossible at this time to compute how much more has been lost through the application of this erroneous principle in other cases. And not only was the joint committee warned by the minority members that the case should be taken to the courts, but it was also warned by its own technical staff that the rule used on this specific question was not the correct rule, and the decision of the Court of Claims demonstrates the solid basis for these warnings.

On March 4, L. H. Parker, chief of staff of the joint committee, stated in a report on the proposed refund of $33,000,000 to the Steel Corporation:

> It is true that the bureau is following a recent ruling of its legal department in the treatment of intercompany profits, but it is also true that the present policy is a reversal of the policy followed up to 1924, and it is believed that the present policy is open to serious question.
>
> Under this rule the Government loses about $17,000,000 tax in 1917 and $6,000,000 in 1918 by the consolidated returns. For its present procedure the bureau relies primarily on S. M. 1530, and secondarily on L. O. 1108. Both of these decisions were published in 1924 and represent a reversal of the first policy without any court decisions requiring such change.
>
> Law Opinion 1108 was written by Mr. Alexander Gregg, formerly Solicitor of the Bureau of Internal Revenue, before the time he became solicitor. Mr. Gregg, however, put a memorandum in the file condemning the very memorandum he wrote as being unsound and fallacious.

Upon this opinion, which was not concurred in by its author, these refunds have been granted, and the consolidated companies, such as the United States Steel Corporation, have been the beneficiaries. It should be remembered that by this opinion only the consolidated companies benefit; that it does not affect the ordinary corporation in any way.

In the revenue act of 1928, through the efforts of the minority, the consolidated returns provision was stricken from the act in the House, but was restored by the Senate. The pernicious effect of this provision is exemplified in this one case, especially when administered by executives who appear to function solely for the purpose of protecting the interests of these corporations rather than the interests of the Government.

We spend days in the House debating items of only a few thousand dollars. We devote months to the consideration of whether we shall appropriate $9,000,000 or $12,000,000 for the District of Columbia government, and yet we hand to the United States Steel Corporation $26,000,000 with only an ineffectual protest from the minority and without a court decision upon which to base such refunds.

Several weeks ago I introduced a resolution authorizing an investigation of the Treasury Department in connection with these tax refunds, and that resolution has never been reported by the committee to which it was referred. I believe that in view of this decision of the Court of Claims the resolution should be acted upon and Congress informed as to the reason and motives of the Treasury Department in granting these refunds without a court decision.

The $33,000,000 refund to the United States Steel Corporation was approved by the majority members of the Joint Committee on Internal Revenue Taxation in March. Since that time refunds aggregating $5,845,052.75 have been approved by the Treasury Department, and it is interesting to note that of this amount $3,435,948 represents refunds to Pennsylvania corporations.

I believe that the great mass of American taxpayers, upon whom the burden of these enormous refunds must fall, are entitled to demand of Congress and the Treasury Department that these matters be submitted to the courts for adjudication. The fallacy of the rule applied by the Treasury Department has been made evident by the decision of the Court of Claims, and it is obvious that a halt must be called, a thorough investigation made, and rules established upon a sound basis by the courts.

### WAR DEPARTMENT APPROPRIATION BILL

Mr. BARBOUR. Mr. Speaker, I call up the conference report on the bill (H. R. 7955) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1931, and for other purposes, and ask that the statement be read in lieu of the report.

The SPEAKER. The gentleman from California calls up the conference report on the bill H. R. 7955, the War Department appropriation bill, and asks unanimous consent that the statement be read in lieu of the conference report. Is there objection?

There was no objection.

The SPEAKER. The Clerk will read the statement.

The statement was read.

Following are the conference report and accompanying statement:

### CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7955) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1931, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 5, 12, 18, 19, 20, 21, 22, 35, and 38.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 6, 8, 14, 15, 16, 17, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 40, 41, 42, 44, 45, 46, 47, and 48, and agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert "$2,500 each, thirty such vehicles at $2,000," and on page 22 of the bill, line 22, strike out "forty" and insert in lieu thereof "ten"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, amended to read as follows: "including interior facilities, necessary service connections to water, sewer, gas, and electric mains, and similar improvements, all within the authorized limit of cost of such buildings"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lines 3 and 4 of the matter inserted by said amendment strike out the following: "as a heavier as well as a lighter than air field"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "*Provided further*, That the Secretary of War is authorized to enter into contracts for the purposes specified in the foregoing acts, to an amount not to exceed $2,773,000, in addition to the appropriation herein made, but no contract shall be let or obligation incurred that would commit the Government to the payment of a sum exceeding $750,000 for completing all of the Army construction projects in Porto Rico embraced by the Budget for the fiscal year 1931"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment, amended to read, as follows: "*Provided further*, That no part of the funds herein appropriated shall be available for construction of a permanent nature of an additional building or an extension or addition to an existing building, the cost of which in any case exceeds $20,000: *Provided further*, That the monthly rental rate to be paid out of this appropriation for stabling any animal shall not exceed $15"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment as follows: In lines 4 and 5 of the matter inserted by said amendment strike out the word "contemplated" and insert in lieu thereof "provided"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "*Provided*, That in the procurement of articles of furniture, equipment, and furnishings, or replicas thereof, required to restore the appearance of the interior of the mansion to the condition of its occupancy prior to the Civil War, obligations may be incurred without advertising when in the opinion of the Quartermaster General it is advantageous to the Government to dispense with advertising"; and the Senate agree to the same.

The committee of conference have not agreed on amendments numbered 39 and 43.

HENRY E. BARBOUR,
FRANK CLAGUE,
JOHN TABER,
ROSS A. COLLINS,
W. C. WRIGHT,
*Managers on the part of the House.*

DAVID A. REED,
W. L. JONES,
FRANK L. GREENE,
WM. J. HARRIS,
JOHN B. KENDRICK,
*Managers on the part of the Senate.*

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7955) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1931, and for other purposes, submit the following statement explaining the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report:

On No. 1: Appropriates $57,480 for contingencies, Military Intelligence Division, as proposed by the Senate, instead of $62,480, as proposed by the House.

On No. 2: Appropriates $80,760 for Army War College, as proposed by the Senate, instead of $82,020, as proposed by the House.

On No. 3: Appropriates $24,669,783 for subsistence of the Army, as proposed by the Senate, instead of $24,675,258, as proposed by the House.

On Nos. 4 and 5, relating to incidental expenses of the Army: Strikes out, as proposed by the Senate, provision for lecture fees at the Army Music School, and appropirates $3,904,738, as proposed by the House, instead of $3,928,738, as proposed by the Senate.

On Nos. 6, 7, and 8, relating to Army transportation: Appropriates $14,975,000, as proposed by the Senate, instead of $15,000,000, as proposed by the House; authorizes the purchase of 10 passenger-carrying automobiles at $2,500 each, and of 30 such vehicles at $2,000 each, instead of 40 cars at $2,000 each, as proposed by the House, and 40 cars at $2,500 each, as proposed by the Senate, and authorizes the purchase of 150 passenger-carrying automobiles at $1,200 each, as proposed by the Senate, instead of such number of such vehicles at $1,500 each, as proposed by the House.

On Nos. 9, 10, and 11, relating to military posts: Restores the matter inserted by the House specifying certain objects to be included as utilities and appurtenances, amended to omit "sidewalks, driveways, grading, and seeding lawns"; makes $125,000 of the appropriation proposed by the House available toward construction of barracks and quarters at Scott Field, Ill., as proposed by the Senate; removing, however, the Senate proposal to designate such field as a heavier as well as a lighter than air field, and inserts in lieu of the contract authorizations proposed by the House and Senate a contract authorization of $2,773,000, to which is attached a limitation of $750,000 on obligations which may be incurred for completing construction projects in Porto Rico.

On Nos. 12 and 13, relating to barracks and quarters and other buildings and utilities: Appropriates $11,000,000, as proposed by the House, instead of $11,152,060, as proposed by the Senate, and restores the limitations proposed by the House, amending the one relating to construction to exempt projects costing $20,000 or less.

On No. 14: Strikes out the limitation proposed by the House on the use of the appropriation for construction and repair of hospitals, for constructing hospitals, or extending or adding to existing hospitals.

On Nos. 15, 16, and 17, relating to seacoast defenses: Appropriates $85,000 for construction of shore-protection works at Fort Screven, Ga., as proposed by the Senate.

On No. 18: Appropriates $3,010,000 for signal service of the Army, as proposed by the House instead of $3,103,378, as proposed by the Senate.

On No. 19: Appropriates $268,970 for engineer equipment of troops, as proposed by the House, instead of $263,970, as proposed by the Senate.

On No. 20: Appropriates $9,719,161 for ordnance service and supplies, Army, as proposed by the House, instead of $9,479,306, as proposed by the Senate.

On No. 21: Appropriates $1,870 for incidental expenses, tank service, as proposed by the House, instead of $1,300, as proposed by the Senate.

On No. 22: Appropriates $79,500 for pay of property and disbursing officers, National Guard, as proposed by the House, instead of $122,200, as proposed by the Senate.

On Nos. 23 and 24, relating to the Organized Reserves: Expresses more fully the objects of expenditure incident to personal injury or disease sustained or contracted in line of duty, as proposed by the Senate, except that the word "provided" is substituted for the word "contemplated," and amends, as proposed by the Senate, the limitation with respect to flight training so as to apply to officers "physically and professionally qualified to perform aviation service as an aviation pilot," instead of "qualified to perform combat service as an aviation pilot."

On Nos. 25 to 34, both inclusive, relating to the Reserve Officers' Training Corps: Provides specifically for expenses incident to transportation of warrant officers and enlisted men and of their dependents in connection with duty with Reserve Officers' Training Corps units, and amends the limitation on enlarging the number of mounted, motor transport, or tank units by prescribing as the maximum number the number in existence on January 1, 1928.

On No. 35: Appropriates $2,814,772 for citizens' military training camps, as proposed by the House, instead of $2,884,772, as proposed by the Senate.

On No. 36: Corrects the name of an annuitant under the acts of May 23, 1908, and February 28, 1929, as proposed by the Senate.

On No. 37: Restricts the authorization proposed by the House to obligate available funds for the restoration of the Lee Mansion without advertising when advantageous to the Government to funds used in the procurement of articles of furniture, equipment, and furnishings, or replicas thereof, as proposed by the Senate.

On No. 38: Continues available the unobligated balances of the appropriations previously made for the Fredericksburg and Spotsylvania Battle Fields Memorial, as proposed by the House, instead of coupling with such a continuance an additional appropriation of $50,000, as proposed by the Senate.

On Nos. 40, 41, and 42: Appropriates $232,500 for completing the monument on Kill Devil Hill, Kitty Hawk, N. C., as proposed by the Senate, instead of $7,500 toward the erection of such monument, as proposed by the House, and makes the appropriation available until June 30, 1932, as proposed by the Senate, instead of "until expended," as proposed by the House.

On No. 44: Strikes out, as proposed by the Senate, the appropriation of $2,500 proposed by the House on account of the birthplace of George Washington, Wakefield, Va., such appropriation having been included in the bill making appropriations for the Department of the Interior for the fiscal year 1931.

On Nos. 45, 46, and 47: Appropriates $80,000 for repairs at the Bath Branch, National Home for Disabled Volunteer Soldiers, as proposed by the Senate, instead of $125,000, as proposed by the House.

On No. 48: Makes available $1,000 for the purchase of law books, Panama Canal, as proposed by the Senate, instead of $1,500, as proposed by the House.

The managers on the part of the House have agreed to recommend that the House concur in Senate amendments Nos. 39 and 43, with amendments. The former relates to the Shiloh National Military Park and the latter to Old Fort Niagara, N. Y.

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W. C. WRIGHT,
*Managers on the part of the House.*

Mr. BARBOUR. Mr. Speaker, I want to make just a brief statement to the House concerning the conference report.

The bill as passed by House carried $456,243,386.

The bill as passed by Senate carried $456,780,864.

Total Senate increases, $537,478.

As agreed to in conference, including amendments Nos. 39 and 43, brought back for disposition by House, the bill carries $456,544,151, which sum exceeds the amount of the bill as passed by House by $300,765, and falls under the amount of the bill as passed by Senate by $236,713.

The items contributing to the sum of the Senate increases agreed to are as follows:

| | Increase | Decrease |
|---|---|---|
| Contingencies, Military Intelligence Division | | $5,000 |
| Army War College | | 1,260 |
| Subsistence of the Army | | 5,475 |
| Army transportation | | 25,000 |
| Seacoast defenses | $85,000 | |
| Shiloh National Military Park | 50,000 | |
| Monument on Kill Devil Hill, N. C | 225,000 | |
| Old Fort Niagara | 25,000 | |
| Birthplace of George Washington | | 2,500 |
| Bath Branch, National Home for Disabled Volunteer Soldiers | | 45,000 |
| | 385,000 | 84,235 |
| | 84,235 | |
| Net increase | 300,765 | |

Of the increases agreed to totaling (net) $300,765, there is budget support for the entire amount and an additional sum to spare.

As agreed to by the conferees, the bill is within the Budget estimates by $764,766.

Unless there are questions that any Member may desire to ask I will move the adoption of the conference report.

Mr. DYER. Mr. Speaker, will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. DYER. Will the gentleman explain to us the purpose of amendment No. 10? I see that the conferees have agreed to strike out the words "heavier" as well as "lighter air fields." Does that leave the matter as it now exists in the law, that this is a lighter-than-air field?

Mr. BARBOUR. That is a lighter-than-air field. The Senate wrote in language that might be construed as directing the War Department to use it also as a heavier-than-air field. The conferees deemed it advisable not to make that change in this bill. We are maintaining it in its original status.

Mr. DYER. Will the gentleman tell us whether or not the conferees felt that way about this amendment?

Mr. BARBOUR. We felt that it was a legislative matter, and that if we agreed that it could be used as heavier-than-air field it might be construed as legislation.

Mr. DYER. There is no other objection aside from the technical one that it is legislation on an appropriation bill?

Mr. BARBOUR. So far as was developed with the conferees, that was the only matter under consideration.

Mr. ARNOLD. Mr. Speaker, will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. ARNOLD. Is there any change made as to the Scott Field in the conference report other than as provided in the bill as it passed the House?

Mr. BARBOUR. Yes. It provides that $125,000 shall be used for Scott Field. The House carried no provision for Scott Field. The conference report provides that $125,000 be made available for Scott Field for construction work.

Mr. ARNOLD. For construction work and equipment?

Mr. BARBOUR. Yes.

Mr. LAGUARDIA. Mr. Speaker, will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. LAGUARDIA. Did the conference disturb in any way the proviso provided by the House concerning amendments for construction?

Mr. BARBOUR. There were some changes made in those items. The gentleman recalls that a contract authorization was carried in the House bill providing that not more than $750,000 should be obligated for the Army Medical School.

Mr. LAGUARDIA. At West Point?

Mr. BARBOUR. Yes. We took the limitation off that as to the amount.

Mr. LAGUARDIA. Did the Senate or the conference disturb the proviso adopted by the House in amendments as to waiving the requirements of the statute that the authorities at West Point could build themselves?

Mr. BARBOUR. We just took the limitation off the amount, so that the original estimate would control. It was represented to us that they would be unable to complete that construction in a satisfactory manner with the amount the House put in, so we took off the limitation, and the original estimate will remain.

Mr. LAGUARDIA. The gentleman is aware of the fact that we have gone over their estimated appropriations three or four times?

Mr. BARBOUR. Yes; in several cases they have gone over the authorized amount.

Mr. LAGUARDIA. As to the building program at Mitchel Field, do I understand that the specific appropriation for specific buildings has been changed, so as to make that a lump-sum appropriation?

Mr. BARBOUR. Not in this bill.

Mr. LAGUARDIA. Is there any idea of doing that?

Mr. BARBOUR. There was an authorization for buildings at Mitchel Field, and they advertised for bids and the bids came in considerably over the amount that was authorized. Those buildings have not been constructed and the money has not been spent.

Mr. LAGUARDIA. Will they be able to proceed with construction now?

Mr. BARBOUR. It is intended to ask for additional money.

Mr. LAGUARDIA. And meantime they can not proceed?

Mr. BARBOUR. Meantime they can not proceed.

Mr. LAGUARDIA. There was nothing that could be done in this bill to enable them to proceed?

Mr. BARBOUR. This bill carries for Mitchel Field, in the lump-sum appropriation, $216,000 for noncommissioned officers' quarters and $660,000 for officers' quarters.

Mr. LAGUARDIA. Then, they can proceed if they can build within those limits?

Mr. BARBOUR. If they can build within those limits; yes.

Mr. LAGUARDIA. Now, may I ask as to the Kitty Hawk Monument? Are all the plans sufficiently advanced so as to justify an appropriation for the complete amount?

Mr. BARBOUR. We are so advised that the $225,000 carried here will complete the monument at Kitty Hawk.

Mr. LAGUARDIA. Was the committee presented with the plan or design of the proposed monument?

Mr. BARBOUR. No, sir; the conference committee was not; but we were informed that it is in satisfactory shape at this time, so that they can go ahead and complete the monument.

Mr. LAGUARDIA. Now, may I ask one more question? I notice that amendments have been inserted by the Senate and accepted by the House conferees as to a limitation upon the price of automobiles.

Mr. BARBOUR. Yes.

Mr. LAGUARDIA. Is that to compel the purchase of any one specific machine?

Mr. BARBOUR. No.

Mr. LAGUARDIA. Or is it simply for reasons of economy?

Mr. BARBOUR. For reasons of economy. The House provided for 40 automobiles at not to exceed $2,000 and 150 at not to exceed $1,500. The Senate changed that to 40 at not to exceed $2,500 and 150 at not to exceed $1,200 each. The conferees agreed to the 150 at $1,200 and agreed to 10 at not to exceed $2,500 and 30 at not to exceed $2,000.

Mr. VINSON of Georgia. Will the gentleman yield?

Mr. BARBOUR. I yield.

Mr. VINSON of Georgia. As a matter of fact, the maximum for automobiles in the Navy appropriation is only $1,500. I am wondering why the committee allows $2,500 for the Army.

Mr. LAGUARDIA. That is all right. An admiral ought to be in a boat and not be in an automobile. Everybody knows that.

Mr. BARBOUR. Admirals do much of their traveling in high-priced launches. They do not have the need for automobiles that a general in the Army has.

Mr. RANKIN. Can the gentleman tell us what those launches cost?

Mr. BARBOUR. Perhaps the gentleman from Georgia [Mr. VINSON] can.

Mr. IRWIN. Will the gentleman yield?

Mr. BARBOUR. I yield.

Mr. IRWIN. I notice in the item of $125,000 for Scott Field that the Senate went further in describing that as "lighter than air" and "heavier than air."

Mr. BARBOUR. Yes.

Mr. IRWIN. The motives of the conferees in removing that language was merely so that it would not be legislative matter on an appropriation bill?

Mr. BARBOUR. That is correct.

Mr. IRWIN. And the status of the field, as far as lighter than air, stands as it already is?

Mr. BARBOUR. It remains just the same.

Mr. LAGUARDIA. The field may be used for any purpose by the Air Service?

Mr. BARBOUR. Yes; for any purpose whatever.

Mr. COLLINS. Will the gentleman yield?

Mr. BARBOUR. I yield.

Mr. COLLINS. The answer of the gentleman to the gentleman from Georgia [Mr. VINSON] was hardly the correct one. The position of the House conferees was that the cost of automobiles for admirals on duty in Washington and places where they are required to do land duty should be the same as those purchased for generals, because their status was the same as the status of generals. We felt that the automobiles purchased for generals should cost no more than those purchased

for admirals, but we were forced to accept the $2,500 limit for 10 of them, because the Senate conferees thought that 10 automobiles of the $2,500 class should be provided. I personally believe the prices paid should not exceed $1,800. I do not ride in a car costing that much. This may be because I have to pay for it, and I dare say these generals would find they could get along just as well on a lower priced car if they had to pay for it.

Mr. BARBOUR. And, in addition, the admirals have launches.

Mr. COLLINS. Well, they do not have launches when they are on shore duty.

Mr. BARBOUR. No; but they do not have the need for automobiles that commanding officers of the Army do.

Mr. LAGUARDIA. Why do you not get them roller skates?

Mr. VINSON of Georgia. Does the gentleman mean the generals?

Mr. COLLINS. I think $2,500 is too much.

Mr. VINSON of Georgia. In the construction of officers' quarters Congress has adopted the policy that the expenditure should be the same, and it is an effort on the part of Congress to have expenditures for the Army and Navy as close as possible. Now, the precedent is being adopted of purchasing $2,500 automobiles for the Army, and we will be in the position of having to purchase $2,500 automobiles for the Navy. Why not put it where it formerly has been, $1,500, to be a satisfactory car for Government service?

Mr. LAGUARDIA. Will the gentleman yield?

Mr. BARBOUR. I yield.

Mr. LAGUARDIA. We must assume that these automobiles for generals are for their official military use.

Mr. VINSON of Georgia. And that same assumption must be applied to the Navy Department.

Mr. LAGUARDIA. When a general goes out with his division at drills or maneuvers he takes a staff with him, and they are on strictly military duty. He must have a high-powered car of sufficient capacity to get around and carry on his work as a general of the Army. An automobile for an admiral, as I understand it, is for his convenience while on land duty.

Mr. VINSON of Georgia. That is exactly what the purpose of the automobile is for the general in the Army, because these 10 automobiles will be used in Washington.

Mr. LAGUARDIA. All 10 of them?

Mr. VINSON of Georgia. The 10 which will cost $2,500; yes, sir. Now, I say to the gentleman from New York the same principle should apply in the Army as applies in the Navy.

Mr. LAGUARDIA. If the automobiles are to be used for post duty in Washington, I will concede that, but if those automobiles are to be purchased for a general's use in the field then a different type of machine is necessary.

Mr. VINSON of Georgia. That is true, but this provision provides for 10 automobiles for generals, and the use of them is primarily here in the city of Washington, just the same as the use of the automobiles for the Navy Department will be in the city of Washington.

Mr. LAGUARDIA. I suppose a major general in command of a corps area will get one of these machines?

Mr. BARBOUR. It was stated in conference that the 40 proposed by the Senate would be used by the higher Army officials here in Washington and in the corps areas. The 10 have not been definitely allocated, and where they will be used I can not say at this time.

Mr. VINSON of Georgia. My point is that the expenditures for these things for the Army and Navy should be kept as close together as possible.

Mr. BARBOUR. I agree with the gentleman, and I also agree with the gentleman from New York that there is a difference in the use to which these automobiles are put by generals in the Army and admirals in the Navy.

Mr. RANKIN. Will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. RANKIN. With reference to the item for the resurfacing of the road in the Shiloh National Park, as I understand the Senate adopted an amendment providing for a concrete road?

Mr. BARBOUR. Yes.

Mr. RANKIN. And that the conferees changed it and reduced the appropriation. What kind of a road will be constructed?

Mr. BARBOUR. I understand they will construct a crushed stone or gravel road, with a surfacing of tarvia, or something of that kind.

Mr. RANKIN. Will it be the same kind of a road they have in the Gettysburg National Park?

Mr. BARBOUR. I understand it will not be exactly the same as the roads in the Gettysburg National Park, which have been there for a long time and which have just recently been put in good condition. Let me say to the gentleman that I am told that this will furnish a much better road than any of the roads in that immediate vicinity at the present time.

Mr. RANKIN. What I am trying to get at is whether the surfacing of it will be the same as the surfacing of the roads in the Gettysburg National Park.

Mr. BARBOUR. I am told by Colonel Gibson that probably it will not be as substantial a road as the Gettysburg roads but that it will be a better road than those in the immediate vicinity of Shiloh National Military Park.

Mr. RANKIN. The gentleman means by not being "as substantial" that it will not stand up as long, but the point I am trying to get at is whether or not the surfacing will be practically the same—as long as it does stand up—as the roads in the Gettysburg Park.

Mr. BARBOUR. It will be a different type of surfacing, as I understand.

Mr. LAGUARDIA. I think the gentleman from Mississippi is very fortunate in getting what he did get.

Mr. RANKIN. But the gentleman from New York is so far from the battle front that he does not understand the situation.

Mr. LAGUARDIA. But you are getting a road.

Mr. RANKIN. But they have these roads in Gettysburg, Chickamauga, and in other national parks. Let me ask the gentleman this question: This will not preclude us from having further improvements made on this road?

Mr. BARBOUR. I would not consider that this would preclude the gentleman from Mississippi.

Mr. RANKIN. I will say to the gentleman from New York [Mr. LAGUARDIA] that we are going to keep at this until we have as good roads at Shiloh as they have at Gettysburg.

Mr. BARBOUR. This will take care of you for several years to come, I think.

Mr. Speaker, I move the previous question on the adoption of the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Amendment No. 39, page 74, after line 18, insert:

"Toward resurfacing with concrete the road situated in the Shiloh National Military Park and extending from the original boundaries of the park to the Corinth National Cemetery, such sum to be expended under the direction of the Secretary of War, $100,000, said resurfacing to be completed within a limit of cost of $306,000."

Mr. BARBOUR. Mr. Speaker, I move that the House recede and concur with an amendment.

The SPEAKER. The gentleman from California moves that the House recede and concur with an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment No. 39. In lieu of the matter inserted by said amendment, insert the following:

"Toward resurfacing the road situated in the Shiloh National Military Park and extending from the original boundaries of the park to the Corinth National Cemetery, such sum to be expended under the direction of the Secretary of War, $50,000, said resurfacing to be completed within a limit of cost of $100,000."

The SPEAKER. The question is on agreeing to the motion of the gentleman from California.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Amendment No. 43, page 78, line 3, insert:

"Old Fort Niagara, N. Y.: For the repair, restoration, and rehabilitation of the French gateway, head house, the French and early American battery emplacements and gun mounts, the old French chapel, and early American hot-shot oven, and including the repair and building of roadways and the improvement of grounds, and the completion of the building and/or restoration and rehabilitation of rest room at Old Fort Niagara, N. Y., $25,000 to be expended only when matched by an equal amount by donation from local interests for the same purpose, such equal amount to be expended by the Secretary of War: *Provided*, That all work of repair, restoration, rehabilitation, construction, and maintenance shall be carried out by the Secretary of War in accordance with plans prepared and submitted by the Old Fort Niagara Association (Inc.), of New York State, and approved by the Secretary of War."

Mr. BARBOUR. Mr. Speaker, I move that the House recede and concur with an amendment.

The SPEAKER. The gentleman from California moves that the House recede and concur with an amendment, which the Clerk will report.

The Clerk read as follows:

On page 7 of the Senate engrossed amendments, line 17, strike out all after the word "plans," down to and including the word "war," in line 19, and insert in lieu thereof the following: "approved by him."

The SPEAKER. The question is on agreeing to the motion of the gentleman from California.

The motion was agreed to.

EQUALIZATION OF PENSIONS TO CERTAIN SOLDIERS, SAILORS, AND MARINES OF THE CIVIL WAR

Mr. NELSON of Wisconsin. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 12013) to revise and equalize the rate of pension to certain soldiers, sailors, and marines of the Civil War, to certain widows, former widows of such soldiers, sailors, and marines, and granting pensions and increase of pensions in certain cases, with a Senate amendment, disagree to the Senate amendment, and ask for a conference.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent to take from the Speaker's table House bill 12013, disagree to the Senate amendment, and ask for a conference. The Clerk will report the bill.

The Clerk read the title of the bill.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. NELSON of Wisconsin, ELLIOTT, and LOZIER.

VOCATIONAL REHABILITATION

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table H. R. 10175, 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, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from New York asks unanimous consent to take from the Speaker's table House bill 10175, disagree to the Senate amendments, and ask for a conference. The Clerk will report the bill.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. GARNER. Mr. Speaker, I would like to ask if the gentleman has conferred with the conferee on this side of the House?

Mr. REED of New York. I have talked with Mr. BLACK; yes.

Mr. GARNER. And it is entirely agreeable to him to send the bill to conference?

Mr. REED of New York. Yes.

The SPEAKER. Is there objection. [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. REED of New York, FENN, and BLACK.

LEGISLATIVE APPROPRIATION BILL

Mr. MURPHY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 11965) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Ohio asks unanimous consent to take from the Speaker's table the bill (H. R. 11965) with Senate amendments, disagree to the Senate amendments, and ask for a conference. The Clerk will report the bill.

The Clerk read the title of the bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none, and appoints the following conferees: Messrs. MURPHY, WELSH of Pennsylvania, HOLADAY, SANDLIN, and CANNON.

BOULDER DAM

Mr. DOUGLAS of Arizona. Mr. Speaker, I ask unanimous consent to insert in the RECORD immediately following this request an opinion by the firm of Covington, Burling & Rublee with respect to the validity of certain instruments entered into by the United States, the city of Los Angeles, and the Southern California Co. with reference to a lease of a proposed power plant at Boulder Dam and the sale of falling water for the generation of electrical energy, with respect to the validity of an instrument entered into by the United States and the Metropolitan Water District with reference to the purchase of electrical energy, and with respect to an instrument entered into by the United States and the Metropolitan Water District with reference to the purchase of water delivered.

The SPEAKER. The gentleman from Arizona asks unanimous consent to extend his remarks in the RECORD by printing a legal opinion in connection with certain contracts in relation to Boulder Dam. Is there objection?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, may I ask the gentleman from Arizona at whose request this firm of lawyers rendered this opinion?

Mr. DOUGLAS of Arizona. At my own.

Mr. LAGUARDIA. I suppose, then, it is an adverse report with respect to the legality of these instruments?

Mr. DOUGLAS of Arizona. Decidedly it is.

Mr. LAGUARDIA. Inasmuch as we have an Attorney General of our own, for the present I am constrained to object.

Mr. STAFFORD. Will the gentleman withhold his objection a moment?

Mr. LAGUARDIA. Yes.

Mr. STAFFORD. Would the gentleman have any objection to having the matter printed as a document so that it may be available in that way?

Mr. LAGUARDIA. I have not examined it. I will in due time, and for the present I shall object.

The SPEAKER. Objection is heard.

THE FLATHEAD, MONT., POWER SITE

The SPEAKER. Under the previous order of the House, the Chair recognizes the gentleman from Minnesota [Mr. KVALE].

Mr. KVALE. Mr. Speaker, a week ago, in a memorandum from the Department of the Interior, there was announced the acceptance of the application of the Rocky Mountain Power Co. for the license to develop site No. 1 at Flathead Lake, Mont.

I think the Nation should be interested in this matter. This is the third largest power site in the United States.

I may say at the outset that my interest does not lie with one or the other of the applicants. I have no particular concern over the fact that the rejected application was made by a Minnesota man, an independent engineer named Wheeler, who asked for a preliminary permit, although I am thoroughly convinced his was the better offer. The statement reads:

After years of consideration definite plans have finally been adopted which, if the terms of the license are approved by the legal advisers of the Secretary of the Interior, will make it possible to build the dam at the Flathead site in Montana and to give the Indian owners a flat rental of practically double the amount originally proposed.

Now, Mr. Speaker, this is essentially true, as far as it goes. There have been years of investigation, inquiry, hearings, and rehearings, and they have finally culminated now, as the Secretary states, in the granting of this license, with the matter in the hands of his legal advisers. The flat rental will be double the amount originally proposed by the successful applicant, but the memorandum fails to note it will fall far short of equaling the amount that the other bidder proposed to pay into the tribal funds.

We do not know what this contract contains. The thing is still secret except for this skeleton outline we have. The whole proceeding has been secret. Secrecy has pervaded all the transactions throughout these dealings and it is for this reason we feel there is a sinister cloud of suspicion hanging over the entire affair.

Now, what does this license do? It proposes to lease this site for 50 years—so that the license will be in operation after you and I are dead—to this dummy corporation, a subsidiary of the Montana Power Co., which, in turn, is dominated by Electric Bond & Share.

The Indians are to receive an average rental of $140,000 annually, roughly, over the period of years. The potential power is over 110,000 horsepower at this one site. Of this amount this license proposes to develop 68,000; in other words, a little more than one-half. On the other hand, Mr. Wheeler, who asked for a preliminary permit, proposed to develop the entire amount of potential power there.

Not only this, Mr. Speaker, but beyond this site there are four other sites which together are capable of developing in excess of 100,000 horsepower. These Mr. Wheeler proposed to develop in addition.

Under the terms of the present contract not only this substantial part of the power at site No. 1 will remain undeveloped, but all the power at the other four sites.

Later on the statement from the department reads:

No decision as to the preliminary permits asked for by both the Rocky Mountain Power Co. and Walter H. Wheeler on the four other Flathead sites has been announced.

Mr. Speaker, that is ridiculous clearly, if once a permit has been given to develop site No. 1, the other four sites are valueless to anyone else. The licensee at site No. 1 will control the reservoir and the flow of water, and thus control the power that can be generated on the other four sites. It would be impossible for any other applicant to come in and develop the four lower sites under such conditions.

Mr. ANDRESEN. Will the gentleman yield?

Mr. KVALE. I yield.

Mr. ANDRESEN. Does the gentleman know whether any other application has come in from a corporation or municipality of the State of Montana for the use of the power site?

Mr. KVALE. I will say that there were only two applications before the commission. A third was filed years ago, but set aside.

There have been several set-ups, one after another, which were secret—by the Indian Bureau, by the Secretary of War, then by the Department of the Interior, all of them presented and promptly withdrawn when they were justly criticized and each in itself an interesting story—and now comes this last one, which proposes a set-up on a flat rental basis instead of so much per horsepower.

The Rocky Mountain Power Co. is a subsidiary, a dummy. Why is the contract drawn with it instead of with the real corporation? Perhaps this is the reason. I think the gentleman from Montana will agree with me that under our present law the Federal Government can control and direct capitalization, securities, and charge for power by this company. But the Rocky Mountain Power Co. will sell its entire power output to the Montana Power Co., which will pour it into its general stream of power, so that from that point on the Federal Power Commission yields to the State utilities commission.

But this agency can not control the capitalization of contracts which the Montana Power Co. will add for its contract with the dummy, or the securities it issues as a result, or the rates that will be reflected in order that it may have a fair return on these added securities. This corporation already has a 200,000 reserve of undeveloped horsepower, and now they will tie up 65 or 75 per cent of the potential power at Flathead, tie it up permanently, against the public interest, which demands the development of all the power.

Mr. EVANS of Montana. Will the gentleman yield?

Mr. KVALE. I yield.

Mr. EVANS of Montana. Is it the contention of the gentleman from Minnesota that the Montana Public Utilities Commission can not control the rates to be charged by the Montana Power Co.?

Mr. KVALE. Certainly; that has been shown time after time. It was shown in testimony before the Federal Trade Commission, before the Senate Committee on Indian Affairs, and at the hearings before the Federal Power Commission itself.

Mr. EVANS of Montana. Can the gentleman give the House the benefit of his reason for saying that the Montana Public Utilities Commission can not control the rates to be charged by the Montana Power Co.?

Mr. KVALE. The gentleman will understand that I am speaking about the rate charged by the Rocky Mountain Power Co. with which the Federal Power Commission has a contract. Here the Federal agency has control. The Rocky Mountain Power Co. will, however, turn all the power which it generates, at a rate determined upon by the officials which control both companies and thus contract with themselves as a matter of fact, over to the Montana Power Co., whose books will in all likelihood be found to be kept in the city of New York, where the holding companies have their offices.

The Montana Public Utilities Commission, let us say, wants and needs those books and records to get data and information upon which to base its regulatory action. There is no way now in which the Montana commission can go into the State of New York and examine these books for any regulatory purpose. Such a situation has been met time and time again.

Mr. EVANS of Montana. I do not know anything about the Montana Utilities Commission going to New York, but for 20 years the Montana Utilities Commission has controlled the rates for power sold by the Montana Power Co. in the State of Montana.

Mr. KVALE. I accept the gentleman's statement; but that does not change the argument that I make, that the Government is not acting in good faith in dealing with this dummy corporation which it can regulate, but which can turn around and sell its power output at a ridiculously low rate to the Montana Power Co., which, in turn, will sell it at established rates, and in addition will promptly capitalize this contract at a figure in the millions, upon which a fair return can be demanded. Those are the facts. If the Government had dealt directly with the Montana Power Co., the returns to the Indians would have been on the basis of the excess profits it stands to gain as a result of developing this site. The Indian Bureau's own officials have shown that such excess profits would be hundreds of thousands of dollars annually. But as the result of dealing with a dummy and not with the Montana Power Co. itself, the Indians receive $140,000. Mr. Wheeler proposed to give them $240,000; that, however, is incidental.

Mr. CRAMTON. Mr. Speaker, will the gentleman yield?

Mr. KVALE. Yes.

The SPEAKER. The time of the gentleman from Minnesota has expired.

Mr. KVALE. Mr. Speaker, I ask unanimous consent to proceed for two minutes more.

The SPEAKER. Is there objection?

There was no objection.

Mr. CRAMTON. Did Walter H. Wheeler at any time show definite evidence that he could finance the proposition, so that the Indians would get a nickel, or so that anybody would get any power if he got the permit?

Mr. KVALE. Mr. Wheeler asked for a preliminary permit of three years' duration, and if that had been granted him shortly after it was applied for, by this time, of course, he would either have had all his contracts and would have been ready to proceed with the actual construction, or he would have withdrawn from the picture. He has so stated under oath.

Mr. CRAMTON. He has not been able to show the commission that he could finance the proposition if granted the permit.

Mr. KVALE. In the very nature of things, no. He wants the opportunity to get in there with a preliminary license. Once he has that, then he can go out and secure his contracts, but not before, and no one can expect him to do otherwise.

Mr. CRAMTON. And, of course, not having any money to finance his proposition, not being able to guarantee that he would ever build the project, it is easy to hold out alluring offers and statements of what the Indians would get.

Mr. KVALE. In view of the advantages to be derived both to the Indians and to the public and in view of the benefits in addition from power that would attract and cause operation of these mighty electrochemical and electrometallurgical plants right there—which would have employed thousands of the Indian and other residents of that section—with unlimited supply of raw materials right at their door, I think the Government should have given more serious consideration to Mr. Wheeler's proposal. I think he has been shabbily treated.

He has consistently been denied access to information that appears beyond doubt to have been given to the other group, just as I have and as others have. And yet I think this contract would have been just as wrong and equally despicable if Mr. Wheeler had never been concerned—this contract that will be binding for 50 years—and I can not feel it is fair to the public or to the Indians. I do not think the Power Commission has abided by the intent of the law when it gives this license to the Montana Power Co. through the Rocky Mountain Power Co., misrepresents Wheeler's application, and then shoves it aside.

The SPEAKER. The time of the gentleman from Minnesota has again expired.

Mr. CRAMTON. Mr. Speaker, I shall have some time a little later which I do not expect to use; and, if I may, I shall be glad to transfer three minutes of my time to the gentleman from Minnesota.

The SPEAKER. Without objection, it is so ordered.

Mr. KVALE. I thank the gentleman. I still have several points that I would like very much to dwell upon.

Mr. ANDRESEN. Mr. Speaker, will the gentleman yield?

Mr. KVALE. Yes.

Mr. ANDRESEN. Disregarding the two bids that were made for permits, what would be the gentleman's suggestion as to what should be done with the power possibilities on the reservation?

Mr. KVALE. I am for the full development of the power, and not for a license that will mean only a limited development. In view of the proposition that Mr. Wheeler advances, I am convinced there is a chance to develop a great industry out there, if Wheeler were permitted to attract these industrial plants through availability of cheap power to be used in manufacture of fertilizer and other products. The Department of Agriculture issued a report upon this phase of it, and that report bears out Mr. Wheeler's contentions. I think—and I introduced a resolution some time ago to that effect, which was recently superseded by a joint resolution—that no action should be taken by the Federal Power Commission in these all-important dispositions of applications until Congress shall have had a chance to determine what is its wish.

The other body of Congress has passed a resolution which provides for a reorganization of the Federal Power Commission. No action has been taken that I know of, either in committee or in the House, on that resolution. The session is drawing to its close. This is most urgent that we consider and pass this in the House of Representatives before adjournment.

There have been charges and cross charges. They have been hurled about here all winter and spring. Developments have been numerous and rapid, and have been too intricate for us to follow. It would require the full time of any Member to digest and to evaluate half of what is being shown in sworn evidence in the Federal Trade Commission hearing, in the various hearings in the Senate and in the House, even those that have come casually through the Appropriations Committee. If only some such person might pick out the essential information and lay that before the membership of the House.

Mr. EVANS of Montana. Mr. Speaker, will the gentleman yield?

Mr. KVALE. Yes.

Mr. EVANS of Montana. How long does the gentleman think it would take to make the investigation and give adequate attention to it?

Mr. KVALE. I think it would take months. I have tried to devote some time to it, and have only scratched the surface.

Mr. EVANS of Montana. Does the gentleman know that the application to get this permit was made 10 years ago and that it has taken all of those 10 years up to this time?

Mr. KVALE. Indeed I do; and in view of that I think it is misleading to advance the element of haste at this time, and to crowd through this license before attention is given to some of the facts and information developed during the past winter.

Mr. EVANS of Montana. If it could not be done in 10 years, how much time does the gentleman think it would take to do it?

Mr. KVALE. I would not undertake to say.

Mr. ANDRESEN. Mr. Speaker, will the gentleman yield?

Mr. KVALE. Yes.

Mr. ANDRESEN. Does not the gentleman feel that the people residing in the cities and villages of Montana should be given opportunity to develop this power for their own use?

Mr. KVALE. I would like to see such an arrangement, of course.

The SPEAKER. The time of the gentleman from Minnesota has again expired.

Mr. KVALE. Mr. Speaker, I ask unanimous consent to proceed for one minute more.

The SPEAKER. Is there objection?

There was no objection.

Mr. KVALE. The thing I would like to see, rather even than that, would be to have this power developed by an agency that does not already have 200,000 undeveloped horsepower in reserve and that seeks this site only for the purpose of developing as little as possible, to continue its monopoly and to stifle all competition that may threaten.

It seems to me the desire of Congress should be to make possible the generation and sale of cheap power in the interest of the development of industry, and the consequent benefit of such a program to the people in cheap products and in employment, as well as through the cheaper rates that would certainly be reflected as a result.

Before closing, let me read a telegram—it was unsolicited, reached me yesterday. So it is probable that other Members have received the same telegram. I read:

POLSON, MONT., *May 24, 1930.*

Representative KVALE,

*House of Representatives, Washington, D. C.:*

Tribes position unchanged. Strongly opposed proposal lease Rocky Mountain Power Co.; consider it fraud against Indians. Committed against wishes and advice tribe. Will cause diminished prosperity, diminished opportunity for employment, continuous injury for 50 years to come. We urge passage Shipstead-Kvale joint resolution.

COVILLE DUPUIS,

*Chairman Flathead Tribal Council.*

Mr. Speaker, under leave to extend my remarks, I wish to quote one paragraph from an address delivered in the Senate on April 18, 1930, by the Senator from North Dakota [Mr. FRAZIER], which will identify the man who has signed the telegram I have quoted and indicate his authority to speak for the Indians. The Senator says:

Later last fall, after we had been there in the summer, this Joe Irvine and a few other discontented Indians formed a sort of association—an Indian association, I think they called it—which pretended to represent the great majority of the Indians of the Flathead Reservation. They organized and sent resolutions and petitions to the Commissioner of Indian Affairs favoring the immediate lease of the site to the Rocky Mountain Power Co. I have a letter here signed by the president and secretary of the Flathead tribal council. I wish to say that this tribal council was duly elected under the regulations prescribed by the Interior Department. After the new commissioner, Mr. Rhoads, and the new assistant commissioner, Mr. Scattergood, came into office on the 1st of July, they had a new election called out there so that there would be no doubt that the majority would be represented by the new tribal council. The election was on October 5, 1929, at which time Depuis was again elected a member and made president of the tribal council; in fact, Mr. President, there were only a dozen or twenty at the outside who voted against him.

[Applause.]

Mr. Speaker, I add two telegrams which indicate the injustice which has been done the unsuccessful applicant, Mr. Wheeler, in questioning his ability to carry out his plans to market his power to interested industries. They are of record, and are typical of many more that might be presented.

MINNEAPOLIS, MINN., *October 29, 1929.*

FORBES & DANIELS,

*Washington, D. C.:*

I have gone into the matter of the proposed water-power development on Flathead River in Montana, with Walter H. Wheeler, engineer, of this city, in considerable detail. I have also discussed it with large investment houses. I know Mr. Wheeler's ability and reputation as an engineer and it is my opinion that, if the Federal Power Commission issued a preliminary permit to him, he will have no difficulty in financing the preliminary work necessary to make application for a license and that he will be able to quickly sell enough power to industries at $15 per horsepower year to enable him to finance and carry through the development.

C. A. FULLER,

*Manager Bond Department, Metropolitan National Bank.*

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MINNEAPOLIS, MINN., *October 29, 1929.*

DANIEL R. FORBES,

*408 Kellogg Building, Washington, D. C.:*

Have known Walter H. Wheeler, engineer, of this city, a number of years. His personal standing here is excellent. From information furnished me by him, I believe he will be able to finance the preliminary work necessary to apply for license. If granted him, he will be able to finance the construction and market the power.

F. M. PRINCE, *First National Bank.*

I include also a brief extract from the hearings before the Committee on Interstate Commerce of the United States Senate of February 19, 1930. Mr. Russell, chief accountant for the Federal Power Commission, is recorded on page 60 as stating:

* * * I have handled some cases out there involving street railways and telephones, and we had no actual value as the basis of the rate. The trouble is to determine the value, and even if they could under the Montana law they have no jurisdiction to regulate securities nor accounting, and when you go into the books of a power company in Montana and you find the books in New York, as you do frequently, the State has its hands tied, because they can not get the books. They can not get the information that the Federal authorities can get. As to the States, if they are functioning, or where they can function, the trouble is many times they have no facilities, have no money, have no equipment, have not the necessary men to do the work. And in many States the law is defective in not giving the State jurisdiction over the issuance of securities and accounting, so that they can determine values. They can only determine that usually upon reproduction costs.

Records also show that in this present case the Montana Power Co. will promptly add to its paper capitalization many millions of dollars, representing the value of the contract with the dummy. Upon this increased capitalization the people of Montana will be required to pay rates which will bring the corporation a fair return.

I have learned enough about this transaction to know that it deserves the careful attention of every Member of this House and indicates that we can not act soon enough in considering and in passing the bill which the Senate has already passed providing for a reorganization of the Federal Power Commission.

The SPEAKER. Under the special order of the House the Chair will recognize the gentleman from Montana [Mr. LEAVITT] for 10 minutes.

Mr. LEAVITT. Mr. Speaker and Members of the House, I congratulate the gentleman from Minnesota [Mr. KVALE] on his presentation on the side of this question upon which he finds himself, but in practically all of the discussions of the subject of the power permit or license on the Flathead River one extremely important thing is either minimized or not discussed at all. That important thing is the fact that the Federal Government would not be a party to the development of this project were it not within an Indian reservation. Speakers

and writers refer to the disposal of this power as though it were the property of the United States, to be sold for the benefit of the people, without regard to its ownership by the Indians. The Government is in this picture only because it is the guardian of this Indian tribe, and the Secretary of the Interior and the Power Commission are charged with the responsibility of requiring a contract which will give the best possible returns to these Indian wards. If these power sites were not on an Indian reservation, the Flathead not being a navigable stream, the Federal water power act would not apply and the jurisdiction would be in the State of Montana.

Let us suppose under these circumstances that the Secretary of the Interior, having been charged with special responsibility in the matter by the provision in the Interior Department appropriation act approved on March 7, 1928, had accepted a bid unreasonably low, thus disposing of an asset of the Indians for the special benefit of the whites, or if he had tied up their asset of power in a preliminary permit to a promotor who had not satisfied him of his ability to finance the necessary construction of the required plants, those posing as special friends of the Indians would have been the first to criticize him.

The provision in the Interior Department appropriation act approved March 7, 1928, to which I have referred places upon the Secretary of the Interior an especial responsibility and authority. I quote the provision in full:

*Provided*, That the unexpended balance of the $395,000 available for continuation of construction of a power plant may be used, in the discretion of the Secretary of the Interior, for the construction and operation of a power-distributing system and for purchase of power for said project, but shall be available for that purpose only upon execution of an appropriate repayment contract as provided for in said acts: *Provided further*, That the net revenues derived from the operation of such distributing system shall be used to reimburse the United States in the order provided for in said acts: *Provided further*, That the Federal Power Commission is authorized, in accordance with the Federal water power act and upon terms satisfactory to the Secretary of the Interior, to issue a permit or permits or a license or licenses for the use, for the development of power, of power sites on the Flathead Reservation and of water rights reserved or appropriated for the irrigation projects: *Provided further*, That rentals from such licenses for use of Indian lands shall be paid the Indians of said reservation as a tribe, which money shall be deposited in the Treasury of the United States to the credit of said Indians and shall draw interest at the rate of 4 per cent.

I call your attention to the quotation, "Federal Power Commission is authorized, in accordance with the Federal water power act and upon terms satisfactory to the Secretary of the Interior, to issue permits," and so forth. The Federal Power Commission has this authority to issue permits or licenses only upon terms satisfactory to the Secretary of the Interior. That is the law as established by this Congress, and that would still be the law if this matter had been delayed for the forming of a new power commission under the Couzens Act, which has passed the Senate. That new power commission, which I personally favor, would have authority to issue a license in this particular case only upon terms approved by the Secretary of the Interior. What would be gained, then, by the delay? I answer that nothing could be gained and that much would be lost.

I make this assertion because each year of delay deprives the Flathead Indians of the revenue which would come to them as rental of this tribal asset of power, and also because there is still another group of people vitally and legitimately interested in the development of power from the Flathead River, for which some of them have been waiting for nearly 20 years. I refer to the settlers on the Flathead irrigation project. I note here a table with regard to the ownership of the irrigable area of the Flathead irrigation project.

*Flathead irrigation project, Montana*

(Project data, total Flathead project)

| | | |
|---|---|---|
| Ultimate irrigable area | acres | 124,500 |
| Ownership (ownership recheck, October, 1929): | | |
| 463 trust patent Indian allotments | do | 22,862 |
| 24 fee patent Indian allotments | do | 1,750 |
| White owned | do | 99,888 |
| Area under constructed works | do | 112,500 |
| Population of reservation: | | |
| Indians on tribal rolls | | 2,908 |
| Whites (estimated) | | 6,000 |

From this table you will note that the population of the reservation is practically 2 to 1 white, and that the ownership of irrigable lands is very largely in the hands of white people. About 20 per cent is in Indian hands.

In 1907 the Indian Bureau came to an agreement with the Reclamation Service regarding plans for the development of a great reclamation project on the Flathead Indian Reservation. The allotment of lands to the enrolled members of the Indian tribe was made, and in 1910 the surplus lands were sold to white settlers, who came to the project from many States of the Union, under advertisements sent out by the Government. Among the inducements which brought these people there was a statement to the effect that the development of water power would be greatly to the advantage of these settlers. Before this a beginning had been made on the construction of the proposed power development at the Newell Tunnel, and from 1909 to 1927 18 notices of appropriation of the waters of Flathead River by the United States for the use of the irrigation project were filed in the office of the county clerk and recorder of Flathead and Lake Counties, Mont. These notices complied with the Montana State law and stand as a record of the purpose of the Government that power necessary to pump added water needed for reclamation and for other purposes would be developed.

In 1925 a committee of this House, headed by the gentleman from Michigan [Mr. CRAMTON], visited the project. My colleague from Montana, Judge EVANS, in whose district this reservation lies, and myself were members of the committee. There had been difficulty in securing repayment to the Government, and it was found that this was due considerably to the failure of the Government to have completed the project to assure an adequate and certain supply of water. An agreement was reached intended to bring about the development of sufficient power to supply this lack, utilizing the Newell Tunnel, which had been practically completed at a cost of over $101,000. That amount stood as a charge against the project, but the tunnel had never been driven through. It was required that a repayment contract should be entered into by the project settlers, for the interest of the Government in this matter was not entirely in the settlers themselves but also in the Treasury. An expenditure of over $5,000,000 had been made, and its repayment was a matter of concern to both the settlers and the Government.

It was shortly after this conference that the question was raised as to whether or not it would be better, rather than carry out a small development of this kind, to grant a permit, presumably to be followed by a license, based on an application filed with the Power Commission by the Rocky Mountain Power Co. in 1920.

The value of the larger development would be at least twofold. It could not only be brought about under conditions which would provide the power necessary to the irrigation project but it would also provide a revenue to be paid into the tribal fund of the Flathead Indians.

The power company ultimately made an offer of $1 per horsepower to the Indians, for the development of the first site below the outlet of the Flathead lake, estimating 68,000 horsepower, and meeting the needs of the irrigation project by an offer to provide 10,000 horsepower at 1 mill per kilowatt-hour and an additional 5,000 horsepower at a rate of 2½ mills per kilowatt-hour. While this matter was under negotiation, an application for a permit was filed with the power commission by Walter H. Wheeler of Minneapolis, offering a rate of $1.12½ per horsepower, estimating site No. 1 to be capable of producing 104,000 horsepower and four additional sites down the river as capable of producing 109,000 horsepower. It should be noted that the four lower sites have not been definitely studied by engineers and that Mr. Wheeler did not apply for a license to construct, but for the usual preliminary permit the granting of which would give him a period of two years to carry on studies.

Considering at once the Indian, the irrigation project settlers, and the Federal Government, conclusion has been reached that a license should be issued for the upper site to the Rocky Mountain Power Co., not at the rates offered by either that company or applicant Wheeler but at rates arrived at following consultation and negotiation. Such a license was issued last Friday, and I shall place it at the end of this address. In addition to the rights and equities involving those already mentioned it has in mind people living at the upper end of Flathead Lake, in providing for the control of the lake levels. I shall be pleased to have every Member of the House study this license carefully, and I will discuss it somewhat further later on.

Since word of the terms of this license has been sent out the Secretary of the Interior has received telegrams from a number of Flathead Indians indicating satisfaction with those terms. The gentleman from Minnesota [Mr. KVALE] read a telegram for Coville Dupuis, president of the Flathead tribal council, protesting the award; but let us not forget that on practically every Indian reservation there are at least two groups, each claiming to represent the sentiment of the Indians. The group represented by the telegrams I shall place in the

RECORD is, I am informed, greater in numbers than those represented by the so-called tribal council. Conflicting claims are made to me as to the election of this tribal council. The first telegram I present contains the names of Chief Martin Charlo and Chief Koostata, in addition to Henry Matt, John Charley, Joe Allard, and Joe Irvine. Chief Martin Charlo and Chief Koostata both have their pictures and names on the letterhead of the Flathead tribal council and Joe Allard is the president of a later organization known as the Flathead Indian Association. My belief is that the other signers of the telegram belong to the latter organization. The first telegram is as follows:

RAVALLI, MONT., *May 23, 1930.*

Secretary of the Interior WILBUR,
*Washington, D. C.:*

We wish to congratulate you on granting the lease on power site near Polson, Mont., to the Rocky Mountain Power Co. The terms of the lease are very good; in fact, better than we expected. Majority of the Indians are very well pleased.

Chief MARTIN CHARLO.
HENRY MATT.
JOHN CHARLEY.
Chief KOOSTATA.
JOE ALLARD.
JOE IRVINE.

I have two other telegrams to the same effect, which I shall ask to have placed in the RECORD at this point.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. LEAVITT. Here are the telegrams:

POLSON, MONT., *May 23, 1930.*

RAY L. WILBUR,
*Secretary of the Interior:*

Have just learned of leasing of power site to Rocky Mountain Power Co. My people well pleased. Terms better than we expected.

Chief KOOSTATA.
ENAS PAUL.
JAMES KILOWATT, *Interpreter.*

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POLSON, MONT., *May 23, 1930.*

Secretary of the Interior WILBUR,
*Washington, D. C.:*

The Indians of the Flathead Reservation want to congratulate you on the excellent terms and rental secured for our first power site from the Rocky Mountain Power Co. It is far better than we had expected.

BAPTIST MARENGO.
GEO. A. JETTE.
BEN DUCHARME.
MARY E. HANCOCK.

Mr. KVALE. Mr. Speaker, will the gentleman yield there?

Mr. LEAVITT. Yes.

Mr. KVALE. The gentleman will admit that the tribal council is the chief governing agency of the tribe, and the chief has no official standing.

Mr. LEAVITT. I am not ready to admit that fully in this case, because my information is in conflict. I am informed that the later organization represents more than the Flathead tribal council, to which the gentleman refers. I will aks for corroboration of that statement from my colleague who represents that district. I will ask him if the Flathead tribal council is representative of the tribe. Is not the Flathead Indian Association representative, rather than the Flathead tribal council?

Mr. EVANS of Montana. I think that is right, but it is not recognized by the Secretary of the Interior as the tribal council.

Mr. CRAMTON. It is the council that has approved bills of $42,000 of one A. A. Grorud for services not authorized by the Interior Department for the Flathead Tribe and it was Grorud who induced Wheeler to make application for this permit.

Mr. KVALE. If the gentleman will yield, I may say that I am sorry that the discussion has taken this personal angle.

Mr. LEAVITT. The question of Grorud was brought in by the gentleman from Michigan, not by myself.

Now as I have said, in 1907 the Reclamation Service was called into conference by the Indian Service, and there was begun within that reservation a great reclamation project.

After the allotment of lands had been made to the members of the Flathead Tribe the remainder of the lands were thrown open to purchase and settlement by white settlers. A group of people were brought together on that reclamation project through a drawing that took place 20 years ago. There are people there from practically every State in the Union, and the Representatives of all the States in the Union ought to be interested in their welfare. Many of those people have waited for 20 years for the completion of that irrigation project, and the development of that power.

The SPEAKER. The time of the gentleman from Montana [Mr. LEAVITT] has expired.

Mr. LEAVITT. Mr. Speaker, I ask unanimous consent to proceed for the six minutes which was given to the other gentleman on this debate.

The SPEAKER. The gentleman from Montana asks unanimous consent to proceed for six additional minutes. Is there objection?

There was no objection.

Mr. LEAVITT. Mr. Speaker, when we talk about development of a great power project for the benefit to the people, who are the people? Are they people who will be in this country 10 or 15 or 20 or 50 years in the future, or may they not be people who are now citizens of this country, who have gone on to that project, depending on the good faith of their Government in carrying out the promises made? May the people not include those who are now residents of that section of Montana?

So the problem that confronted the Secretary of the Interior was to decide whether or not there should go forward a small development of the power for the direct benefit of pumping water on the irrigation project, or whether we should consider the application that had been made for a preliminary permit in 1920 by the Rocky Mountain Power Co. for a larger development of power that would also pay into the tribal funds of the Indians year after year a considerable amount.

He approached it from the standpoint of both these groups of people, in the belief that the benefit of the one would be even greater if the rights and benefits of the other were likewise taken into consideration.

Then there entered into the picture this other applicant, brought there, as has been stated, by one claiming to represent the Flathead Tribe of Indians. He entered into an agreement with this tribal council that has been referred to for the development of the power there, when the law specifically states that no legal agreement can be made with an Indian tribe without the definite sanction of the Secretary of the Interior.

He did make a preliminary application for a permit for all five sites on the Flathead River, while the application made by the Rocky Mountain Power Co. was only for site No. 1, the upper site. But in all of the hearings, in all of the proceedings in this case, the applicant for these five sites has not specified his financial backing. With that question continually asked and unanswered in the hearings, these settlers on the reclamation project, greatly interested in whether they were going to have something done now or in another 10 or 20 years, put into the hearings their own opinion of that application:

Mr. Wheeler, who applies merely for a permit, gives no assurance as to when, if ever, he will sell the project power. The record shows that after a few hours at the power site he presented specifications apparently copied from those of the other applicant. The record shows that he can not calculate either the stream flow or the power that can be developed. The record shows that his consulting engineer, a supposed expert on the transmission of power, could not even guess the cost of transmission, and testified that power could be developed at an 18-foot site at the same unit cost as at a 180-foot site.

I will ask consent to place the remainder of this in the RECORD.

Mr. KVALE. Mr. Speaker, reserving the right to object, I would like, then, to have consent to place in the RECORD some indorsements of Mr. Wheeler.

Mr. LEAVITT. I shall surely not object, but I will continue the reading of this:

The record shows that he has no market and his most promising customer turns out to be not even a prospect. Fertilizer could not be produced at the Flathead to compete with that produced elsewhere if power were free. Mr. Wheeler declines to name the engineers he has consulted and the persons whom he claims as possible customers for power. All this would seem to indicate a lack of ability on his part to undertake the problems involved in this development, and this distinctly unfavorable impression is by no means improved when one notes his naïve faith in his fantastic contract with the tribal council. This intervener is opposed to the granting of a permit that would be just a piece of paper.

No one has raised any question about Mr. Wheeler personally. He is being considered only as one who is an applicant for an interest vital to two groups of people in the State of Montana. He has been a successful engineer. He has constructed works of considerable size, but he has never financed any of them that I know of, although he has made a success as a construction engineer. The thing that concerns the people on this project is not whether he could build the works if he had the money but

whether he can get the money to do it if given the permission. He has given no evidence of any such ability at any point in these proceedings.

So the Secretary of the Interior, acting under the mandate of this Congress, has advised the Power Commission, after a considerable period of study, that a certain contract should be entered into.

The SPEAKER. The time of the gentleman from Montana has again expired.

Mr. LEAVITT. Mr. Speaker, I ask unanimous consent to proceed for two additional minutes.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. LEAVITT. On last Friday this contract was entered into by the Federal Power Commission. Instead of its being left open so that the Rocky Mountain Power Co.—which in a sense is a subsidiary of the Montana Power Co.—can boost its stock and water it, the Secretary of the Interior, largely through the cooperation of Mr. Scattergood in the Indian Office, has written into this contract such terms as make that sort of a thing impossible, foreseeing that there would be that kind of a criticism. I will ask unanimous consent to place the entire contract in the RECORD, so that the Members of this House may ascertain whether or not I am telling the truth in that connection.

Now, as to the prices that are to be paid. There were two bids. Mr. Wheeler, after the Rocky Mountain Power Co. had bid $1 per horsepower on the upper site alone, and an estimate of 68,000 horsepower to be developed, put in a bid not for a permit to construct but for a permit to study the matter for two years and see whether he could finance it. He bid at the rate of $1.12½ per horsepower. He said, "If you will give it to me, I will study the thing to see if I can not develop the five sites," but he never guaranteed to develop any site. On the other hand, here was the Rocky Mountain Power Co.—a concern which the people of Montana know to be financially sound and able to do what it undertakes—bidding $1 per horsepower. But the Secretary of the Interior and the Indian office, before accepting the bid, went into the proposition to find out how much ought to be secured in the way of rentals for the Indians, and they wrote terms, which you will find in this contract, which call for practically twice as much as had been bid by either for the upper site.

The SPEAKER. The time of the gentleman from Montana has again expired.

Mr. KVALE. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for an additional minute.

The SPEAKER. Without objection it is so ordered.

There was no objection.

Mr. LEAVITT. As to the four lower sites being eternally bottled up because the upper site is to be developed, let me say this: That I have authority to say at this time—having discussed that matter—that if anyone is still interested in those four lower sites, including Mr. Wheeler, they can go in and get permission to carry on and see whether they can bring all of these proposed industries into that section where they do not now exist. If they can do that, they will have the complete protection of the Power Commission. There will be written into a contract—I am sure, that will be entered into—the prorating of the cost of development of the reservoir for the holding and impounding of the water in Flathead Lake.

If I had the time, there are many other points I would like to refer to; but, Mr. Speaker, I will now ask unanimous consent to insert in the RECORD the contract which was entered into in this matter and certain official correspondence.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

The contract and letter referred to follow:

THE FEDERAL POWER COMMISSION LICENSE ON GOVERNMENT LANDS PROJECT NO. 5, MONTANA, ROCKY MOUNTAIN POWER CO.

Whereas by act of Congress, approved June 10, 1920 (41 Stat. 1063), designated therein as "The Federal water power act" and hereinafter called "the act," the Federal Power Commission, hereinafter called "the commission," is authorized and empowered, inter alia, to issue licenses for the purpose of constructing, operating, and maintaining dams, water conduits, reservoirs, power houses, transmission lines, or other project works necessary or convenient for the development, transmission, and utilization of power across, along, from, or in any of the navigable waters of the United States, or upon any part of the public lands and reservations of the United States (including the Territories), or for the purpose of utilizing the surplus water or water power from any Government dam; and

Whereas by act of Congress, approved March 7, 1928 (45 Stat. 212, 213), the commission was specifically authorized, in accordance with the Federal water power act and upon terms satisfactory to the Secretary of the Interior, to issue a permit or permits or a license or licenses for the use, for the development of power, of power sites on the Flathead Reservation and of water rights reserved or appropriated for the irrigation projects; and

Whereas Rocky Mountain Power Co., hereinafter called "the licensee," a corporation organized and existing under the laws of the State of Delaware and having its office and principal place of business in the city of Butte, in the State of Montana, has made application in due and proper form to the commission for a license for a power project designated as project No. 5 on the records of the commission, and for authority to construct, maintain, and operate, in Flathead River and Flathead Lake, in the vicinity of Polson, in the counties of Flathead and Lake, State of Montana, certain project works, as hereinafter described, necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, and in navigable waters of the United States; and to occupy and use therefor certain public lands and reservations of the United States, as hereinafter described, together with all riparian rights appurtenant thereto which are necessary or useful for the purposes of the project; and water rights for power purposes reserved or appropriated for Indian irrigation projects; and

Whereas the licensee has submitted to the commission satisfactory evidence of its compliance with the laws of the State of Montana as required by section 9, subsection (b) of the act, and the commission is satisfied as to the ability of the licensee to carry out the plans for said project as filed with said application; and

Whereas notice of said application has been given and published by the commission, as required by section 4 of the act; full opportunity has been given to all interested parties to be heard, and no application for said project, or in conflict therewith, has been filed by any State or municipality; and

Whereas the maps, plans, and specifications of said project and of said project works, as hereinafter described, have been approved by the commission, and the plans of the dam and other structures affecting navigation have been approved by the Chief of Engineers and the Acting Secretary of War; and the terms set forth in this license are satisfactory to the Secretary of the Interior as required by the act of March 7, 1928 (45 Stat. 212, 213); and

Whereas all charges for defraying the expense of administering the provisions of the Federal water power act were waived by the provisions of the act of March 4, 1929 (45 Stat. 1640); and

Whereas the commission has found that said project, as hereinafter described, will be best adapted to a comprehensive scheme of improvement and utilization of said waterway for the purposes of navigation, of water-power development, and other beneficial public uses; and

Whereas the licensee on the 20th day of May, 1930, pursuant to an authorization of its board of directors, a copy of the record thereof being hereto attached, accepted in writing all the terms and conditions of the act and of this license: Now, therefore,

The commission hereby issues this license to the licensee for the purpose of constructing, operating, and maintaining certain project works necessary or convenient for the development and improvement of navigation and for the development, transmission, and utilization of power across, along, from, or in the Flathead River and Flathead Lake, navigable waters of the United States, and constituting a part of the project hereinafter described; said license, including the period thereof, being subject to all the terms and conditions of the act and of the rules and regulations of the commission pursuant thereto as amended and made effective on the 1st day of May, 1928, as though fully set forth herein, which said rules and regulations are attached hereto and made a part hereof, and being subject also to the following express conditions and limitations, to wit:

ARTICLE 1. This license is issued for a period of 50 years from the date hereof, and in consideration of such license and the benefits and advantages accruing thereunder to the licensee it is expressly agreed by the licensee that the entire project, project area, and project works as hereinafter designated and described, whether or not located in, on, or along said Flathead River and Lake or upon lands of the United States, shall be subject to all the terms and conditions of this license, including the terms and conditions of the act and of the rules and regulations of the commission pursuant thereto and made a part of this license.

ART. 2. The project covered by and subject to this license is designated as Flathead site No. 1, is located partly on public lands and reservations of the United States, and consists of—

(a) All lands constituting the project area and inclosed, or the location of which is shown, by the project boundary, and/or interests in such lands necessary or useful for the purposes of the project, whether such lands or interests therein are owned or held by the licensee or by the United States, such project area and project boundary being more fully shown and described by certain exhibits which accompanied said application for license and which are designated and described as follows:

Exhibit J: Map in one sheet designated "Flathead development general map" (F. P. C. No. 5-1).

Exhibit K: Map in four sheets designated "Flathead development project map" (F. P. C. No. 5-4, 5, 6, 7).

Exhibits J and K: Signed Rocky Mountain Power Co., by F. M. Kerr, vice president.

(b) All project works, consisting of a concrete dam in and across the Flathead River about 4 miles below the outlet of Flathead Lake.

A reservoir in said Flathead River and Lake.

Water conduits about 770 feet long, including an intake at the upper end of each such conduit.

A power house and appurtenant equipment, such project works being more fully shown and described by certain exhibits which accompanied said application for license and which are designated and described as follows:

Exhibits J and K: Cited above.

Exhibit L: Map in two sheets designated "Flathead development general plan" (F. P. C. No. 5-8), and "Flathead development dam analysis" (F. P. C. No. 5-9).

Exhibit M: Four typewritten sheets designated "General description of plant and equipment, Flathead development."

Exhibits L and M: Signed Rocky Mountain Power Co., by F. M. Kerr, vice president.

(c) All other structures, fixtures, equipment, or facilities used or useful in the maintenance and operation of the project and located upon the project area, including such portable property as may be used and useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as a part of the project works is approved or acquiesced in by the commission; also all other rights, easements, or interests the ownership, use, occupancy, or possession of which is necessary or appropriate in the maintenance and operation of the project or appurtenant to the project area.

ART. 3. The maps, plans, specifications, and statements designated and described in article 2 hereof as Exhibits J, K, L, and M, respectively, and approved by the executive secretary for the commission in accordance with its authorization of May 19, 1930, are hereby made a part of this license, and no substantial change shall hereafter be made in *said exhibits*, or any of them, until such change shall have been approved by the commission: *Provided, however,* That if the licensee deems it necessary or desirable that said approved maps, plans, specifications, and statements, or any of them, be changed there shall be submitted to the commission for approval amended, supplemental, or additional maps, plans, specifications, and statements covering the proposed changes, and upon approval by the commission of such proposed changes such amended, supplemental, or additional maps, plans, specifications, and statements shall become a part of this license and shall supersede, in whole or in part, such map, plan, specification, or statement, or part thereof, theretofore made a part of this license as may be specified, respectively, in the order or indorsement of approval.

ART. 4. Said project works shall be constructed in substantial conformity with the approved maps, plans, and specifications thereof made a part of this license and designated and described in articles 2 and 3 hereof or as changed in accordance with the provisions of said article 3. Except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works constructed under this license without the prior approval of the commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the commission shall direct. Minor changes in or divergence from such approved maps, plans, and specifications, may be made in the course of construction, if such changes will not result in decrease in efficiency, in material increase in cost, or in impairment of the general scheme of development; but any such minor changes made without the prior approval of the commission which in its judgment have produced or will produce any of such results shall be subject to such alteration as the commission may direct.

ART. 5. The work of construction under this license, whether or not conducted upon lands of the United States, shall be subject to the inspection and approval of the district engineer, United States engineer office, Seattle, Wash., or of such other officer or agent as the commission may designate, who shall be the authorized representative of the commission for such purposes. The licensee shall notify such representative of the date upon which work will begin, and as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of construction for a period of more than one week, and of its resumption and completion.

ART. 6. Subject to the provisions of section 13 of the act, the licensee shall begin the construction of said project works within one year from the date of issuance hereof, shall thereafter, in good faith and with due diligence, prosecute such construction, and shall within three years thereafter complete the installation of three units of not less than 150,000 horsepower, aggregate capacity.

ART. 7. Upon the completion of the project works, or at such other time as the commission may direct, the licensee shall submit to the commission for approval revised maps, plans, specifications, and statements, in so far as necessary to show any divergence from or variations in the project area as finally located or in the project works as constructed when compared with the area shown and the works designated or described in this license or in the maps, plans, specifications, and statements approved by the commission under the provisions of article 3 hereof, together with a statement in writing setting forth the reasons which in the opinion of the licensee necessitated or justified variations in or divergence from the approved maps, plans, specifications, and statements. Such revised maps, plans, specifications, and statements shall, if and when approved by the commission, be made a part of this license and shall, to the extent and in the particulars set forth in the order or indorsement of approval, be substituted for the maps, plans, specifications, and statements theretofore approved by the commission under the provisions of article 3 hereof. The maps finally approved by the commission and made a part of this license under the provisions of article 3 and/or 7 hereof shall show the project area to an adequate scale and the boundary thereof either by legal subdivisions, by metes and bounds survey, or by uniform offsets from center-line survey. Said project area shall include all lands without respect to ownership and whether or not the exact boundaries can be definitely fixed and determined, the use and occupancy of which are or will be valuable or serviceable in the maintenance and operation of the project; on which are located or to which are appurtenant the project works (other than portable property) and the rights, easements, or interests likewise valuable and serviceable; and the ownership or possession, or the right of use and occupancy, of which are subject to acquisition by the United States under the provisions of section 14 of the act. Said maps shall show the ownership of each parcel of land in said project area, and with respect to each parcel to which the licensee has not the fee title, the character of the right of use and occupancy possessed by the licensee together with the term of such right.

ART. 8. For the purpose of determining the stage and flow of the stream or streams from which water is to be diverted for the operation of said project works and of the amount of water held in and drawn from storage, the licensee shall install, as soon as practicable, and thereafter maintain standard recording gages in Flathead Lake at the northern and southern ends, on Flathead River below the power plant, and on the principal streams tributary to Flathead Lake; and shall provide for the required readings of such gages and for the adequate rating of said station or stations. The licensee shall also install and maintain standard meters adequate for the determination of the amount of electric energy generated by said project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, may be altered from time to time if necessary to secure adequate determinations, but such alteration shall not be made except with the approval of the commission or its authorized representative or upon the specific direction of the commission. The installation of gages, the ratings of said stream or streams, and the determination of the flow thereof shall be under the supervision of or in cooperation with the district engineer of the United States Geological Survey having charge of stream-gaging operations in the region of said project, and the licensee shall advance to the said United States Geological Survey the amounts estimated to be necessary for such supervision or cooperation for such periods as may be mutually agreed upon. The licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the commission, shall make return of such records annually at such time and in such form as the commission may prescribe.

ART. 9. The licensee shall be liable for all damages occasioned to the property of others, including lands allotted in severalty to the Indians, by the construction, maintenance, or operation of said project works, or of the works appurtenant or necessary thereto, and in no event shall the United States be liable therefor; nor does this license guarantee the validity of any reservations contained in the patent to any allottee or other grantee of Indian lands, whether in trust or in fee.

ART. 10. In the construction and maintenance of the project works herein specified the licensee shall place and maintain suitable structures to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone, and other signal wires or power transmission lines not owned by the licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling and obstructing traffic and endangering life on highways, streets, or railroads.

ART. 11. The licensee shall allow officers and employees of the United States free and unrestricted access in, through, and across the said project and project works in the performance of their official duties.

ART. 12. The licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands (except lands referred to in other provisions of this license), or other similar property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto constructed under the license. Arrangements to meet such liability either by compensation for such injury or destruction, reconstruction, or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

ART. 13. Timber upon public lands and reservations of the United States, to be used or destroyed in the construction of the project works,

shall be paid for in accordance with the requirements and estimates of the department concerned.

ART. 14. The licensee shall, before placing any transmission line into operation, make provision satisfactory to the commission for avoiding inductive interference between such transmission line and any existing telephone line or lines of the United States, or with any such line or lines for which location has been made and specifications prepared but upon which construction has not begun at the time of erection of said transmission line. Such provisions may be applied either to the transmission line or to the telephone line or to both, as may be determined upon the basis of least cost. The licensee hereby agrees to assent to such changes in the location or design of any of its transmission lines as may in the opinion of the commission be necessary or desirable in order to avoid inductive interference with any telephone line or lines of the United States hereafter constructed or proposed to be constructed, provided such changes are made at the expense of the United States.

ART. 15. The licensee shall clear of all trees, logs, brush, or other débris, up to elevation 2893, the margins of Flathead Lake and those portions of Flathead River which shall be used for reservoir purposes under this license, and shall dispose to the satisfaction of the commission or its designated representative, of all the brush and débris resulting from such clearing, together with all temporary structures and refuse left on public lands and reservations of the United States from the construction and maintenance of said project works. In addition, the licensee shall cut and remove any trees or brush lying above elevation 2893 which may be killed due to the regulation of Flathead Lake for storage purposes.

ART. 16. The licensee shall permit the use of any reservoir included in the project for the temporary storage or for the transportation of logs, ties, poles, lumber, or other forest products: *Provided,* That the use of said reservoir by owners of such logs, ties, poles, lumber, or other forest products shall be under such rules and regulations adopted by the licensee as may be approved by the Secretary of Agriculture.

ART. 17. The licensee will interpose no objections to and will in no way prevent the use of water for domestic purposes by persons or corporations occupying public lands and reservations of the United States under permit along or near any stream or body of water, natural or artificial, used by the licensee in the operation of the project works covered by this license.

ART. 18. The licensee hereby recognizes the right of the United States to pump from the Flathead Lake or from Flathead River above licensee's dam for all purposes of irrigation on the Flathead irrigation project or the lands of the Flathead Reservation, whether included in the irrigation project or not, not more than 50,000 acre-feet of water after July 15 of any one year.

ART. 19. The licensee shall do everything reasonably within its power and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon request of officers of the Forest Service, or other agents of the United States, to prevent and suppress fires on or near the lands to be occupied under this license.

ART. 20. Whenever the United States shall desire to construct, complete, or improve navigation facilities the licensee shall convey to the United States, free of cost, such of its lands and its rights of way and such right of passage through its dam or other structures, and permit such control of pools as may reasonably be required to construct, maintain, and operate such navigation facilities.

ART. 21. The operations of the licensee, in so far as they affect the use, storage, and discharge from storage of the water of Flathead Lake, shall at all times be controlled by such reasonable rules and regulations as the Secretary of War may prescribe in the interests of navigation, and as the Federal Power Commission may prescribe in the interests of flood control and of the fullest practicable utilization of the waters of Flathead River and Clark Fork for power, irrigation, and other beneficial public uses.

ART. 22. The licensee agrees that all rights acquired in connection with the project covered by this license and the use of water for the development of power shall be held subject to the rights which may be reasonably necessary for the complete development of the irrigable land, the domestic water-supply requirements, and the water-power possibilities in the watershed above the project works. The licensee further agrees to waive objections to the subtraction of such water up to a maximum flow of 200 cubic feet per second, as may be authorized under either Federal or State authority for diversion out of the watershed above the project works.

ART. 23. The licensee may regulate Flathead Lake between elevations 2883 and 2893: *Provided, however,* That the commission retains the right, at any time prior to the beginning of commercial operation of the project, to define limits of such regulation between elevation 2880 and 2893 in such manner as will make not less than 1,100,000 acre-feet of storage capacity available to the licensee, it being expressly understood that licensee shall not be restricted to less than 10 feet between the minimum and maximum elevations within which to carry on its regulations of Flathead Lake. It is expressly understood that variations by the commission of any limits of regulation which may be fixed as aforesaid shall not affect the rentals provided for in article 30 hereof. It is expressly understood that if and when water is pumped from Flathead Lake or from Flathead River above licensee's dam after July 15 in any year for purposes of irrigation, as provided in article 18 hereof, the licensee shall be permitted in the months of January, February, and March of the next succeeding year to regulate Flathead Lake, below the minimum elevation which may be fixed as aforesaid, to the extent necessary to enable it to recover the amount of water so pumped for irrigation purposes. Said elevations are in feet above mean sea level as determined by reference to a certain United States Geological Survey bench mark, elevation 2,910.882 feet, stamped "2900 GN." as now located and established at Somers, Flathead County, or to such other bench marks as may be established by the United States Geological Survey having the same datum. As a basis of determination of the aforesaid storage limits the licensee shall complete the mapping of lands bordering Flathead Lake and River and of the lake bed between elevations 2878 and 2900 uniform with the maps already completed by the Geological Survey at the north end of the lake, and shall continue to finance the collection of records of ground-water elevations in the area at the head of Flathead Lake, and the study and interpretation of such records. The licensee also agrees to perform such channel excavation and other work as may reasonably be required by the commission for the purpose of flood control to the end that the normal flood levels of Flathead Lake shall not be increased by reason of the installation of the project works, and for the purpose of full utilization of storage and navigation.

ART. 24. In consideration of the use to be made of the partially completed Newell Tunnel, the licensee shall pay into the Treasury of the United States the sum of $101,685.11, such payment to be made within nine months from and after the date of this license and to be a part of and included in the licensee's net investment in the project.

ART. 25. For the purpose of preventing the entrance of fish into the turbines of the power plant the licensee shall install and maintain such fish stops or other equipment as may reasonably be prescribed by the Secretary of Commerce.

ART. 26. Coincident with the beginning of commercial operation of the project works and thereafter throughout the remainder of the term of the license, licensee shall make available, at the project boundary at or near the licensee's generating station, and the United States, for and on behalf of the Flathead irrigation project or the Flathead irrigation district, may take and, having taken, shall pay for, at the price of 1 mill per kilowatt-hour: (1) Electrical energy in an amount not exceeding 5,000 horsepower of demand to be used exclusively for pumping water for irrigation; and (2) electrical energy in an amount not exceeding 5,000 horsepower of demand for all project and farm uses and for resale. Such deliveries shall be made at such standard voltage as may be selected by the commission. The licensee shall also make available, at the voltage of the line from which service is taken, either at the project boundary at or near the licensee's generating station, or at some more convenient place on the project to be agreed upon, and the United States, for and on behalf of the Flathead irrigation project or the Flathead irrigation district, may take, and having taken, shall pay for, at the price of 2½ mills per kilowatt-hour, additional electrical energy in an amount not exceeding 5,000 horsepower of demand for all project and farm uses and for resale.

ART. 27. The licensee shall, during the period of construction, deliver at line voltage and at a point to be agreed upon on the line or lines which it will construct, to supply power for construction purposes, power for farm and project purposes on the Flathead irrigation project or the Flathead irrigation district, in quantities required by the United States for said purposes up to a maximum demand of 500 horsepower, at the price of 2½ mills per kilowatt-hour.

ART. 28. The United States reserves to itself or to the Flathead irrigation project management, the exclusive right to sell power within the boundaries of the Flathead Indian Reservation, to the extent of 10,000 horsepower to be delivered for use and/or sale as provided in article 26 hereof.

ART. 29. The licensee shall pay to the United States reasonable annual charges for recompensing it for the use, occupancy, and enjoyment of public and reserved lands (not including Indian tribal lands) or other property hereinbefore described. The payment by the licensee of such annual charges for any calendar year shall be made to the United States at the end of the year, or within 30 days thereafter, upon bills rendered or approved by the commission. Such charges shall be determined in accordance with the provisions of regulation 14 of said rules and regulations of the commission, and for the purposes of such determination, the prime power capacity of the project shall be taken as 80,000 horsepower.

ART. 30, (A). The licensee shall pay into the United States Treasury as compensation for the use, in connection with this license, of the Flathead Indian tribal lands annual charges computed as follows:

(1) A charge at the rate of $1,000 per calendar month beginning with the month in which the license is issued and extending to and including the month in which the project is placed in commercial operation. For the purpose of the payments under this article, the beginning of commercial operation shall be considered as the time

when one of the licensee's generating units shall have been installed, tested, and demonstrated to be in suitable condition to produce electric energy for commercial purposes with a reasonable degree of reliability.

(2) A charge at the rate of $5,000 per month beginning with the calendar month next succeeding the date on which the project is placed in commercial operation and extending to the end of the calendar year in which such commercial operation shall commence.

(3) For each full calendar year from and after the 1st of January next following the date on which the first unit is placed in commercial operation, annual charges will be as follows:

| | | |
|---|---|---|
| For the first two years | per year | $60,000 |
| For the third year | | 75,000 |
| For the fourth year | | 100,000 |
| For the fifth year | | 125,000 |
| For the next five years | per year | 150,000 |
| For the next five years | do | 160,000 |
| For the next five years and/or until readjustment of the annual charges payable hereunder shall have been effected pursuant to the provisions of paragraph (D) of this Article 30 | per year | 175,000 |

(B) Payments shall be made for each calendar year within 30 days after the close thereof on bills rendered by the commission.

(C) Pursuant to the provisions of the act of March 4, 1929 (45 Stat. 1640), all charges for reimbursing the United States for the cost of administration of the Federal water power act have been and are hereby expressly waived.

(D) The annual charges payable under this license may be readjusted at the end of 20 years after the beginning of operation under this license and at periods of not less than 10 years thereafter by mutual agreement between the commission and the licensee, with the approval of the Secretary of the Interior. In case the licensee, the commission, and the Secretary of the Interior can not agree upon the readjustment of such charges, it is hereby agreed that the fixing of readjusted charges shall be submitted to arbitration in the manner provided for in the United States arbitration act (U. S. C., title 9), such readjusted annual charges to be reasonable charges fixed upon the basis provided in section 5 of regulation 14 of the commission, to wit, upon the commercial value of the tribal lands involved, for the most profitable purpose for which suitable, including power development.

Article 31. The licensee having submitted a claim of prelicense cost to January 31, 1929, of $183,312.47 and the solicitor of the commission having recommended the rejection of items contained therein aggregating a total of $85,088.76, the commission and the licensee hereby mutually agree that the sum of $98,223.71 shall be entered upon the fixed capital accounts of said project and included in the statement to be submitted to the commission, in accordance with the provisions of article 32 hereof as representing the actual legitimate investment in said project up to and including January 31, 1929: *Provided, however,* That this agreement shall not deny or affect the licensee's right, within one year from and after the date of this license, to submit further evidence to the commission or to any court having jurisdiction for the purpose of establishing the propriety of any part of said $85,088.76.

Article 32. Upon the completion of the construction of said project or of each of the separable parts thereof for which dates of completion are specified in article 6 hereof, or of any addition to or betterment of said project, the licensee shall file with the commission a statement under oath in duplicate showing the actual legitimate cost of construction thereof and the price paid for water rights, lands, or interest in lands appurtenant to such construction as required by regulation 20, section 2, of said rules and regulations of the commission. Any such statement shall include all proper and legitimate costs, whether incurred prior to issuance of license or on and after such date; and the licensee shall, if requested by the commission, show separately on any such statement, or on a special report or reports, the items and amounts of cost incurred prior to date of issuance of license, with such other details as the commission may require. Each and every item of cost included in any such statement shall be supported by proper voucher or other evidence; and any such voucher or evidence, or certified copy thereof, in support of any item properly includible in said cost shall become a part of the permanent records of said project and shall be kept and retained by the licensee in the manner required by the commission. Any statement or report submitted to the commission under the provisions of this article shall be subject to the provisions of section 6 of said regulation 20.

ART. 33. Whenever the licensee is directly benefited by the construction work of another licensee, a permittee, or of the United States of a storage reservoir or other headwater improvement, the licensee shall reimburse the owner of such reservoir or other improvement for such part of the annual charges for interest, maintenance, and depreciation thereon as the commission may deem equitable. The proportion of such charges to be paid by the licensee shall be determined from time to time by the commission. Whenever such reservoir or other improvement is constructed by the United States the licensee shall pay similar charges into the Treasury of the United States upon bills rendered by the commission.

ART. 34. After the first 20 years of operation of said project under this license, out of surplus earned thereafter, if any, accumulated in excess of a specified reasonable rate of return upon the actual legitimate investment of the licensee in said project, all as defined in and determined by the provisions of regulation 17 of said rules and regulations of the commission, the licensee shall establish and maintain amortization reserves, which reserves shall, in the discretion of the commission, be held until the termination of the license or be applied from time to time in reduction of the net investment. Such specified rate of return shall, subject to the proviso of paragraph A, section 3, of said regulation, be one and one-half times the weighted average annual interest rate payable on the par value of the bone fide interest-bearing debt of the licensee actually outstanding, in whole or in part, on account of project property at the beginning of the period of amortization and of each calendar year thereafter; such weighted average annual interest rate being determined as provided in paragraphs B and C of section 3 of said regulation 17: *Provided,* That if at the beginning of the period of amortization or of any calendar year thereafter, the outstanding interest-bearing debt of the licensee on account of the project or projects under license, together with any other works or property operated in connection therewith, is less than 25 per cent of the actual legitimate investment of the licensee in said project or projects; then and in such event for the calendar year next following the specified rate of return shall be two times the legal rate of interest in the State in which the project or major part thereof is located.

Subject to the provisions of section 6 of said regulation, the following proportions of such surplus earnings shall be paid into and held in such amortization reserves: Of all surplus earnings up to and including 2 per cent upon the actual legitimate investment, 30 per cent thereof shall be so paid; of all surplus earnings in excess of 2 per cent and not in excess of 4 per cent upon such investment, 50 per cent thereof shall be so paid; of all surplus earnings in excess of 4 per cent and not in excess of 6 per cent, 70 per cent thereof shall be so paid; and of all surplus earnings in excess of 6 per cent, 90 per cent thereof shall be so paid: *Provided,* That if at the end of any calendar year of the amortization period the commission shall find that the accumulated earnings of the licensee during the period of operation, including the first 20 years thereof, have not yielded a fair return upon the actual legitimate investment in the project or projects under license, the proportion of such surplus earnings for such calendar year and for succeeding calendar years to be paid into such amortization reserves shall be 10 per cent thereof until such time as the accumulated earnings of the licensee represent, in the judgment of the commission, a fair return upon such investment for such period of operation.

ART. 35. No lease of said project or part thereof whereby the lessee is granted the exclusive occupancy, possession, or use of project works for purposes of generating, transmitting, or distributing power shall be made without the prior written approval of the commission; and the commission may, if in its judgment the situation warrants, require that all the conditions of this license, of the act, and of said rules and regulations of the commission shall be applicable to such lease and to such property so leased to the same extent as if the lessee were the licensee hereunder: *Provided,* That the provisions of this article shall not apply to parts of the project or project works which may be used by another jointly with the licensee under a contract or agreement whereby the licensee retains the occupancy, possession, and control of the property so used and receives adequate consideration for such joint use, or to leases of land while not required for purposes of generating, transmitting, or distributing power, or to buildings or other property not built or used for said purposes, or to minor parts of the project or project works the leasing of which will not interfere with the usefulness or efficient operation of the project by the licensee for said purposes. The licensee agrees that it will continue its separate corporate existence under the regulations of the Federal Power Commission, and that it will not enter into any merger with any other corporation or individual without the approval of the Federal Power Commission, previously obtained.

ART. 36. The licensee agrees that it will enter into a contract with the Montana Power Co. under which all electrical power or energy generated by the project covered by this license, except that delivered to or reserved for the United States pursuant to the provisions of this license, shall be delivered to or made available for said the Montana Power Co. or its nominee upon the payment to the licensee of an annual amount approximately sufficient to meet the operating expenses and maintenance costs, taxes, accruals for depreciation and rentals (including the rental charges provided for by this license) and in addition an average return of 8 per cent per annum on its actual legitimate investment in all facilities and property covered by this license and used in the generation and delivery of such power, as established under the provisions of the Federal water power act, and the rules and regulations of the commission issued in pursuance thereof. A duly certified copy of said power contract shall be filed with the commission.

ART. 37. It is hereby understood and agreed that the licensee, its successors and assigns, will, during the period of this license, retain

the possession of all project property covered by this license as issued or as hereafter amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and that none of such properties valuable and serviceable to the project and to the development, transmission, and distribution of power therefrom will be voluntarily sold, transferred, abandoned, or otherwise disposed of without the approval of the commission: *Provided*, That a mortgage or trust deed or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article. The licensee further agrees, on behalf of itself, its successors and assigns, that, in the event said project is taken over by the United States upon the termination of this license, as provided in section 14 of the act, or is transferred to a new licensee under the provisions of section 15 of the act, it will be responsible for and will make good any defect of title to or of right of user in any such project property which is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and will pay and discharge or will assume responsibility for payment and discharge of all liens or incumbrances upon said project or project property created by said licensee or created or incurred after the issuance of this license: *Provided*, That the provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear, or to require the licensee for the purpose of transferring the project to the United States or to a new licensee to acquire any different title or right of user in any such project property than was necessary to acquire for its own purposes as licensee.

ART. 38. The licensee shall abide by such reasonable regulation of the services to be rendered to customers or consumers of power, and of rates and charges of payment therefor, as may from time to time be prescribed by any duly constituted agency of the State in which the service is rendered or the rate charged; and in case of the development, transmission, distribution, sale, or use of power in public service by the licensee or by its customers engaged in public service within a State which has not authorized and empowered a commission or other agency or agencies within said State to regulate and control the services to be rendered by the licensee or by its customers engaged in public service, or the rates and charges of payment therefor, or the amount or character of securities to be issued by any of said parties, it is agreed as a condition of this license that jurisdiction is hereby conferred upon the commission, upon complaint of any person aggrieved or upon its own initiative, to exercise such regulation and control until such time as the State shall have provided a commission or other authority for such regulation and control: *Provided*, That the jurisdiction of the commission shall cease and determine as to each specific matter of regulation and control prescribed in this article as soon as the State shall have provided a commission or other authority for the regulation and control of that specific matter.

ART. 39. The licensee agrees that its securities shall be issued only (1) to the Montana Power Co. upon condition that they shall be retained by said the Montana Power Co., it being understood that none of such securities shall be disposed of by said the Montana Power Co. (except to a trustee or trustees under one of its mortgages or deeds of trust as hereinafter provided) without the express approval of the commission previously had and obtained, and/or (2) to a trustee or trustees under any mortgage or deed of trust securing the issuance of bonds or other securities of said the Montana Power Co., to be held subject to the provisions of such mortgage or deed of trust. Such securities shall be sold to the Montana Power Co. for cash or its equivalent.

ART. 40. The licensee agrees that full and complete copies of rate schedules and all contracts of the licensee or of the Montana Power Co. for management and supervision of its or their affairs, or for general construction, which involve the licensee or the project covered by this license, shall be filed with the Federal Power Commission promptly after execution. The licensee agrees to file annually with the Federal Power Commission copies of its annual reports and also copies of the Montana Power Co.'s annual reports as rendered to the Montana Public Service Commission.

ART. 41. With the written consent of the licensee, the commission may, by order made under its seal, and after the public notice required by section 6 of the act, modify, alter, enlarge, or omit, in so far as authorized by law, any one or more of the conditions or provisions of this license: *Provided, however*, That any such change in the terms of this license that may affect the interests of the Flathead Indians shall also be subject to approval by the Secretary of the Interior.

ART. 42. The enumeration herein of any rights reserved to the United States or to any State or municipality under the act, or of any requirements of the act, or of said rules and regulations of the commission shall not be construed in any degree as impairing any other rights so reserved by the act or as limiting the force of any other requirement of said act or of said regulations.

In witness whereof, the Federal Power Commission has caused its name and seal to be hereto signed and affixed by its executive secretary, F. E. Bonner, this 23d day of May, 1930, pursuant to authority given at its meeting of May 19, 1930, a certified copy of the record thereof being hereto attached.

FEDERAL POWER COMMISSION,
By F. E. BONNER,
*Executive Secretary.*

Approved May 23, 1930.

RAY LYMAN WILBUR,
*Secretary of the Interior.*

In testimony of acceptance of all the terms and conditions of the Federal water power act of June 10, 1920, and of the further conditions imposed in the foregoing license the licensee, this 20th day of May, 1930, has caused its name and corporate seal to be hereto signed and affixed by John D. Ryan, its president, pursuant to a resolution of its board of directors passed on the 20th day of May, 1930, a certified copy of the record thereof being hereto attached.

ROCKY MOUNTAIN POWER CO.
By JOHN D. RYAN, *President.*

Attest:

J. F. DENISON, *Secretary.*

In consideration of the benefits to accrue to the Montana Power Co., a corporation organized and existing under the laws of the State of New Jersey, from the operation of the project which is the subject of the foregoing license, said the Montana Power Co., hereunto duly authorized by resolution of its board of directors, a certified copy of which is hereto attached, hereby guarantees the full performance by Rocky Mountain Power Co., licensee thereunder, of all the terms and conditions of article 6 of said license relating to the commencement of construction of the project works, to the due prosecution of such construction, and to the completion of the installation of three units of not less than 150,000 horsepower aggregate capacity, all as provided in said license. The undersigned company further agrees that it will enter into a power contract with said licensee as provided for in article 36 of said license.

THE MONTANA POWER CO.,
By FRANK SILLIMAN, Jr., *Vice President.*

Attest:

J. F. DENISON, *Secretary.*

Approved and accepted this 23d day of May, 1930.

FEDERAL POWER COMMISSION,
By F. E. BONNER, *Executive Secretary.*

Approved May 23, 1930.

RAY LYMAN WILBUR,
*Secretary of the Interior.*

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UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
*Washington, May 24, 1930.*

The honorable the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: The license of site No. 1, Flathead River, Mont., to the Rocky Mountain Power Co., with attached guaranty and agreement of the Montana Power Co., was referred to me and given careful consideration by the solicitor personally and by one of the ablest attorneys in his office. Two suggestions were submitted to you on May 21, 1930.

Suggestion 1 was for the purpose of clarifying the words "Flathead irrigation project" or "the Flathead irrigation project management" as used in the license, and particularly section 28, my suggestion being in this respect that the licensee, the Rocky Mountain Power Co., should agree that those words wherever used in the license, and particularly article 28, should be "construed and understood to mean the irrigation district or districts, association or associations of water users, successors to the United States in the operation and/or management of said Flathead irrigation project."

The second suggestion was as follows:

The license is to and will be signed by the Rocky Mountain Power Co. Following that is a proposed guaranty, stipulation, and agreement by the Montana Power Co. of certain conditions of the license. The first sentence is a guaranty; the last sentence is an agreement to enter into a power contract with the licensee. It all partakes of the nature of a contract. It is proposed to have same signed by the Montana Power Co. pursuant to resolution of its board of directors. In our opinion this instrument should be approved and accepted by the Federal Power Commission so as to make it a firm and binding contract. It is, therefore, suggested that there be put at the bottom of this instrument, page 25, something like the following:

"Approved and accepted by the Federal Power Commission this ——— day of ———, 1930.

———, ———,
"*Commission.*"

and by the Secretary of the Interior:

"Approved.

———, ———,
"*Secretary of the Interior.*"

The reason for that suggestion is fully stated in said paragraph 2.

The license relates only to site No. 1, and not to power sites on the Flathead River below said site No. 1.

Very truly yours,

E. C. FINNEY, *Solicitor.*

Mr. CRAMTON. Mr. Speaker, by reason of the business before the House and the time taken, I will defer taking any time until later.

THE FLEXIBLE-TARIFF PROPOSAL

Mr. BECK. Mr. Speaker, I ask unanimous consent to proceed for 10 minutes.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to proceed for 10 minutes. Is there objection?

There was no objection.

Mr. BECK. Mr. Speaker and Members of the House, I thank you for the privilege of speaking by unanimous consent. I rise to make a few passing comments upon the latest draft of the flexible tariff proposal. Yesterday I read the draft in the New York Times. It seemed to be authoritative in reciting the full text of this proposed addition to the taxing laws of the United States, and the constitutional machinery of our Government.

I was not fortunate enough, by reason of an accident, to be in the House when this important and vital question was last before the House upon the then report of the conference committee. I did, however, take advantage of the courtesy of my esteemed colleague from New York [Mr. LAGUARDIA] to submit a few suggestions in writing which he was kind enough to incorporate in his speech.

When the conference report again comes before the House it is possible I shall not be here and this may be, therefore, my only opportunity to express any views I have with reference to this new proposal and the grave question, how far the compromise proposal meets the constitutional objections which have been urged by many Members of the House, including myself, and with which many Members on both sides of the House are in sympathy, even though with many Members their sympathy has heretofore had no audible expression in votes.

If I can place dependence, and I assume I can, upon the text of the compromise as published yesterday in the New York Times, then I venture to say that both on grounds of constitutionality and also on grounds of policy, the compromise is worse than the proposal of the House of Representatives as contained in the original bill, and if I am here when the conference committee reports upon this compromise flexible-tariff provision, and a separate vote is permitted upon it, I shall certainly vote against it.

In the first place, it is interesting to note that the conferees, consciously or unconsciously, took up a sugggestion that our esteemed colleague from Iowa [Mr. RAMSEYER] made in the course of a very interesting and forceful speech some months ago in which he attempted to shift the constitutional basis of this flexible tariff provision from the taxing powers of the Constitution to the power over commerce. I had at that time intended to make a reply to his able and interesting argument, but time passed and I thought a better opportunity would occur when the question was next before the House. I regret that I have not now the time to do so. It seemed to me that his argument that a tariff duty is not imposed under the taxing power of the Government, but under the power to regulate commerce involves a confusion of two principles which undoubtedly antedated the Constitution itself, namely, that there was a distinction between a direct tax that was imposed for internal purposes in colonial times and a tax whose only purpose was to regulate foreign commerce. This distinction undoubtedly underlay the constitutional controversy which culminated in the War of Independence. When our present Government began in 1789, it was at first gravely questioned, inasmuch as import duties were levied under the taxing clauses of the Constitution, whether they could be levied for any purpose except revenue. The doctrine was soon developed, and has ever since been regarded as beyond challenge, that while an import duty is primarily an exercise of the taxing power, yet its use for the purpose of protection could only be justified under the provision of the Constitution which empowers Congress to regulate commerce. But it remains a tax. An import duty is a tax.

Its use for protection may be justified under the commerce clause, but nevertheless it is primarily and fundamentally a tax, and if that were not so, it would lead to the extraordinary result that while all taxes must be uniform throughout the United States, yet if an import duty is not a tax but only the exercise of the power to regulate commerce, then there would be no occasion for tariff duties to be uniform throughout the United States, as all other taxes must be.

Of course, this can not be. You can not have one tariff duty in the port of New York and another tariff duty in the port, we will say, of San Francisco, and it can not be so, because an import duty, being a tax, uniformity is required, however you may justify the motive or ulterior purpose of the imposition of the tax by the commerce clause of the Constitution. Therefore I find in the first clauses of this compromise flexible tariff, the suggestion that the duties to be imposed by the Tariff Commission are not taxes within the meaning of the Constitution, but merely regulations of commerce. If our future tariff duties are to be imposed on this theory, profound changes in the structure of our Government will inevitably result.

In the second place, if you are going to transfer this tremendous and greatest of all governmental powers—the power to impose a tax—then I would infinitely rather have the Congress gracefully abdicate its sovereign duty of taxation in favor of the President than in favor of a Tariff Commission. The vice of the compromise provision is that the Tariff Commission determines the tax, the Congress merely suggesting a maximum and a minimum, and unless the President vetoes within 60 days, the conclusion of the Tariff Commission, ipso facto, becomes the tax which collectors of the port must enforce.

I would rather transfer our power, if we are going to make so revolutionary a change in our form of government, to the President who is elective, rather than to a Tariff Commission that is not elective and has no direct responsibility to the people.

Thirdly and lastly, with respect to this proposed compromise, while it adroitly affects to restrict, for purposes of judicial test hereafter in the Supreme Court, the power of the Tariff Commission to a mere ascertainment of differences in the cost of production, yet later on in the proposed compromise we find the "weasel words" that whenever the Tariff Commission is unable to determine such differences in the cost of production, then it can consider any "relevant factors" bearing upon equality or inequality of competition. Such determination of the Tariff Commission can not be the subject of any judicial review, because it sits as an administrative body. If it has the power thus to determine finally the amount of taxes, the judiciary can not review its exercise.

The result will be that the Tariff Commission can impose the rate upon some abstract theory of inequality of competition, and not even the Supreme Court could review its decision or set aside its judgment if it acts within the almost unlimited scope of its statutory powers.

I venture to compliment the draftsmen of the compromise upon the adroitness with which they are attempting not merely to get around the Constitution of the United States but to make it difficult for the Supreme Court to decide that such a delegation of legislative power is unconstitutional. Their skill reminds me very much of Jonathan Swift's immortal Tale of the Tub, where a testator had left to his sons a large sum of money upon the distinct provision and condition that under no circumstances should they ever wear certain shoulder knots which at that time were the fashion, but which the old-fashioned father did not favor; and the sons, desiring both to wear the shoulder knots and to have the legacy, at once proceeded to so construe the will as to make it read the very opposite of what the will in words provided.

The SPEAKER pro tempore (Mr. SNELL). The time of the gentleman from Pennsylvania has expired.

Mr. CRISP. Mr. Speaker, I ask unanimous consent that the time of the gentleman from Pennsylvania be extended five minutes.

Mr. STALKER. Mr. Speaker, reserving the right to object, and I shall not object in this case, we have several District bills coming up to-day, and I shall object to any further unanimous-consent requests.

Mr. RAMSEYER. Now, Mr. Speaker, reserving the right to object, the gentleman from Pennsylvania has made some reference to a speech I made here in December, and I should like to have a few minutes—I do not think I will take over five minutes—to call to the attention of the House just what the controversy is and where the gentleman from Pennsylvania and I differ fundamentally.

Mr. STALKER. I will include the gentleman from Iowa in my exception, but I shall not make any further exceptions.

The SPEAKER pro tempore. Without objection, the gentleman from Pennsylvania is recognized for five additional minutes.

There was no objection.

Mr. BECK. I do not think that I shall occupy all of that time, but I do not want the House to forget the essential nature of what the conference committee proposes to do. The first section of the Constitution, thus written as in letters of gold over the very portal of the temple, says that all legislative powers herein granted are vested in the Congress of the United States to be composed of the Senate and the House of Representatives. What will be done if this compromise becomes a law? If the

Supreme Court should sustain it, you have practically rewritten the first section so it will read in practice, although it may not read in the text, that all legislative powers herein granted are vested in a Congress to be composed of the House of Representatives and the Senate, provided that in respect to questions of taxation—the greatest and most potentially destructive of all powers of government—in respect to questions of taxation its legislative power shall be vested in the Senate and the House of Representatives, whose powers shall be restricted to a suggested minimum and maximum, and that the third branch of the Congress, consisting of six nonelective officers, shall have the power to determine finally the exact duty that is to be imposed.

In other words, if the tax on sugar is 2 cents a pound, we simply have suggested a minimum of 1 cent and a maximum of 3 cents and we have left to a nonelective body, subject to a veto of the President and no more—a nonelective body which the President will appoint and which the President can remove—the power to determine whether the real tax, not a suggested tax, not a tentative tax, but the real tax, whether it shall be 1 cent or 3 cents or any intermediate sum.

Mr. GARNER. Will the gentleman yield?

Mr. BECK. I yield.

Mr. GARNER. I wish the gentleman would call attention to the fact that once Congress surrenders this power it will take two-thirds of the House and the Senate to take it away.

Mr. MORTON D. HULL. How so?

Mr. BECK. Because of the President's veto.

Mr. MORTON D. HULL. The House has the right to repeal the provision.

Mr. BECK. But suppose the President vetoes that. It would then take two-thirds of the House and the Senate, as the gentleman from Texas has stated.

Mr. CRISP. Will the gentleman yield?

Mr. BECK. I yield.

Mr. CRISP. I am thoroughly in accord with the gentleman from Pennsylvania—if this provision is adopted we would change the Constitution. Whereas the Constitution provides for one legislative body, and the President having the right to veto an act of Congress, this creates a second legislative body and gives the President a right to veto their act.

Mr. BECK. If Alexander Hamilton, the greatest advocate of Executive power, had proposed in the Constitutional Convention that taxation should be imposed by Congress through a tentative nomination of possible duties but their action should be subject to revision by an executive body, he would have been laughed out of the Constitutional Convention.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks, because I did not come into the House with the intention of making a speech, but I wanted to show my honest conviction of how far we are drifting in this matter of abdicating the great powers of Congress. It means the reconstruction of our form of government by the concentration of power in the Executive; and against that concentration of power, as long as I am in this House, I propose to not only register my protest but my vote. [Applause.]

The SPEAKER pro tempore. The gentleman from Pennsylvania asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. BECK. This flexible tariff provision is only one indication of the steady drift away from the Constitution of the fathers and toward an unheard-of concentration of power in the Executive. I appreciate the great economic influences that are causing this. Where are we going?

I recognize that the Constitution is something more than a written and definitive contract. It is a living organism, susceptible of adaptation and, therefore, of increasing growth, and its vitality depends upon its correspondence with the necessities and spiritual tendencies of the American people. This only illustrates afresh the immortal truth of Aristotle, that any constitution which does not thus correspond to the "ethos" of the people will necessarily perish. While some learned justices of the Supreme Court, in the true spirit of legal sacerdotalism, have affirmed that the Constitution to-day means exactly what its framers meant, yet no one can read the court's interpretations of the Constitution, contained in 280 volumes of the Supreme Court reports, without being convinced that, with extraordinary ability, the court has developed and adapted the Constitution, as a quasi-constitutional convention in a restricted sense, to the changing needs of the most progressive Nation in this most changing period of the world's history. Thus, it can not be seriously contended that one of the greatest of the Federal powers—namely, the regulation of interstate and foreign commerce—means to-day what the framers meant when they vested this power in the Federal Government. To them the division of governmental power between interstate commerce and intrastate commerce was extraordinarily simple, while its attempted application to a country welded together by the railroad, steamship, telephone, telegraph, and the radio has required a judicial subtlety that has made our dual system of government, in the economic sphere, one of the most intricately complex nations of the world. In this respect the men who framed the Constitution would not recognize their handiwork to-day.

The thought of an ever-changing Constitution is not, in all respects, a comforting one, for, if it be a living organism and have within itself the potency for development and growth, yet, like all living organisms, it then also has within it the seeds of degeneration and possibly death. Such a conception of the Constitution challenges the thought of each living generation of Americans to the great question of whether this living organism is to grow in wisdom or perish in folly.

The Constitution is not to-day what it was 50 years ago, nor was it then what it was a half a century earlier, and it is safe to predict that it will not be 50 years from now what it is to-day. The eternal inquiry arises, "Quo vadis?" Are we treading the downward path to Avernus, from which escape is so difficult, or are we ascending to new and nobler heights of constitutionalism? That should be the great question for every thoughtful American.

Time will not suffice to illustrate my meaning by suggesting the portentous changes to which the Constitution has been subjected. I can only indicate a few by a passing sentence, and in indicating these I do not mean to suggest that some of them may not be desirable, for some undoubtedly conform to the economic needs of the Nation and to the democratic genius of the American people. The destruction of the Electoral College, except as an empty form; the profound change in the representative system, due to the changed democratic ideal that a Representative should think with, and not for his constituents; the breaking down of the barriers that once imperfectly marked the different functions of the executive, legislative, and judiciary; the steady deterioration in power of Congress, as the great council of the Republic and the corresponding aggrandizement of the Executive; the perversion of the taxing power, whereby the Federal Government assumes powers never granted to it; the even greater perversion of the power of appropriation, whereby the Federal Government has persuaded the States, by the moral bribery of Federal grants, to yield their reserved powers; the destruction of the equitable principle that direct taxation should be apportioned among the States in proportion to political power in the House of Representatives; the denial by the Senate of the right of the States to choose their own Senators, except by and with the advice and consent of the Senate; the denial of the right of the States to determine, in respect to their local conditions, the qualifications of an elector; the slow destruction of the power of the State over domestic commerce by the expansion of the Federal commerce power; the creation of numerous bureaus and some departments to effectuate purposes, which are not within the sphere of Federal power; the socialistic experiment of aiding failing industries by grants from the Federal Treasury; the perversion of the taxing power to redistribute wealth; the appointment of diplomatic representatives to represent our country in foreign lands without the sanction of the Senate; the power to declare war without the consent of Congress by acts which make war inevitable, and, finally, the crowning atrocity of the eighteenth amendment, which invades individual liberty in a manner at which Washington and Franklin would have stood aghast and which, in this respect, relegates the once proudly conscious States to the ignominious position of being mere police provinces.

These are only a few illustrations of the profound changes which have been wrought in 143 years of constitutional development. As I have said, some of them may be advantageous, but certainly not all of them. Many of them constitute a revolutionary change in the conceptions of liberty, which were supposed to have been unalterably written into the Constitution.

The proposed flexible tariff is only one illustration. No principle of English liberty was more dear to our forbears than the idea that only the Representatives of the people assembled in Congress could impose a tax. For that right our English forbears had gone to the scaffold and many of the great battles of English liberty were fought about this principle. We separated from the mother country upon this principle that direct taxes could only be imposed by the consent of the representatives of the people. To confirm this conception of liberty the framers of the Constitution not only expressly provided that Congress, and not the Executive, should impose taxes but that all revenue bills must originate in the House of Representatives, as the more directly representative body of Congress, and yet the House of Representatives recently passed a law which gave an almost unlimited discretion to the President, with the aid of the Tariff

Commission, to raise or lower any duty to the extent of 50 per cent of the statutory rate. What does this mean in concrete terms? Every cent per pound that is levied upon the importation of sugar means a burden to the American people of approximately $100,000,000. Suppose the tax, as passed by the Congress, is 3 cents per pound?

If the flexible tariff provision, as passed by the House, shall prevail at this session, the President can make the duty either 4½ cents, or 1½ cents, a difference of 3 cents a pound, and therefore either a diminution of the tax burden of $150,000,000, or an imposition of a like burden upon the consumer, and yet, when this provision was under consideration by the House, only a few of us could see that it involved, for better or worse, an abandonment of a time-honored principle of English liberty, and a palpable violation of the Constitution.

To the extent that this is the result of economic forces, it is irresistible, even if not always desirable, but it is, in part, due to that greed for power, which grows by what it feeds upon. Some of us believe that the Constitution can not survive if the planetary system of the States be wholly absorbed in the central sun of the Federal Government. Our Nation is too vast in area and our people too numerous to be governed altogether from Washington, and yet it seems impossible to combat the tendency toward centralization when this "ethos" of the people of which Aristotle spoke demands it. The portentous difference between the American people, when they framed the Constitution, and the American people to-day is this: Our forbears thought in terms of abstract political rights, but we to-day think in terms of concrete economics. Moreover, the gospel of the American people to-day is efficiency, and to secure such efficiency they are apparently willing to sacrifice any principle that makes for the greater consideration of security.

We can measure this in the contempt of the people for Congress and their confidence in the Executive, whoever he may temporarily be. In nearly every controversy between the Executive and the Congress, the people sympathize with the Executive, for they can visualize a single individual and make a legend of him, but the multiheaded Congress makes no appeal to their imagination. They share the relief of the President when he no longer has "Congress on his hands," to use the popular expression.

This, in itself, is an amazing change in the ethos of the people, for our Constitution was formed when the traditions of the great English revolution of 1688 were still dominant in men's thoughts. Then, the people were jealous of executive power, and established in England the supremacy of Parliament. To-day many Americans subconsciously believe that the United States would be better off if the President were made a committee of one for the Union. That this is their ethos is shown by the fact that, in our industrial development, all government of corporations, tends to concentrate power and, therefore, responsibility in one man, and we can not think in terms of one-man power in industrial development without a reflex effect upon our conception of that larger corporation, which we call our Government.

I confess I can not see the way to combat this changed consciousness of the American people, which is so largely due to mechanical forces, which no written constitution can overcome.

Indeed, our very dependence upon a written Constitution and our mistaken belief in its static nature and its self-executing powers has tended to deaden the political consciousness of the American people. They mistakenly believe that in some way the Constitution will save itself, and they have the wholly illusory idea that if Congress passes unconstitutional laws the Supreme Court will in some way invalidate them, and that, therefore, the people need have no concern about such invasions of the Constitution.

The conclusion is that the Constitution as a living organism is in process of deterioration and not of growth.

If we of to-day, engrossed as we are in the complexity of this modern-day world, fail to see how the upland of the Constitution is being slowly destroyed by the erosion of the waves of innovation, yet the men who framed the Constitution had no illusions as to its perpetuity. Thus, the venerable sage Franklin, after the Constitution was adopted, said, with his usual genial humor:

> Our Constitution is in actual operation; everything appears to promise it will last, but in this world nothing is certain but death and taxes.

Indeed, on the last day of the convention, when the aged Franklin—as some say, with tears in his eyes—implored the reluctant delegates to sign the great compact, which was to immortalize them all, and won their consent by his skillful and ingratiating speech, he made this prediction:

> There is no form of government but what may be a blessing to the people if well administered for a course of years, and can only end in despotism, as other forms have done before it, when the people shall become so corrupted as to need despotic government, being incapable of any other.

The everlasting truth that the Constitution would last as long—and no longer—as there was any spirit of constitutional morality in the hearts of the people was even better expressed by the great founder of Pennsylvania, when he said:

> Government, like clocks, go from the motion men give them, and as governments are made and moved by men, so by men they are ruined, too. Therefore governments rather depend upon men than men upon governments.

Penn's homely but forceful analogy brings us to the very heart of the problem. No constitutional form of government can possibly be maintained unless the people have not only an intelligent grasp of constitutional principles but an ever-vigilant and militant purpose to defend them. The purpose of a constitution is not only to create the mechanics of government but, far more, to subject the passing impulses of a living generation to the reasonable restraints of the collective wisdom of the past. This is impossible unless the individual has some knowledge of the wisdom of the past and a real sense of obligation to the future. Edmund Burke once said that society was a "noble compact between the dead, the living, and the unborn." If the living generation lives in the day, there can be no such thing as constitutional morality, and without such morality no form of government which attempts to restrain the passing emotions of the day can possibly survive.

This seems to mark the fatal difference between the present generation and the generation that created the Constitution. I again repeat that the latter thought in terms of abstract political rights, while the living generation thinks only in terms of concrete economics. In other words, the individual to-day is a pragmatist, in the sense that he not only restricts his consideration of any problem to its ponderables but is often ignorant of the great imponderables that underlie almost any problem.

This is true not only of the man in the street but of the more experienced and better educated citizens. Take, for example, the flexible-tariff proposal to which I have referred. Chamber of commerce after chamber of commerce enthusiastically indorsed it, because they believed that the President could more speedily and wisely impose tariffs than the Congress.

The reason for this is very obvious. Life has grown so infinitely complex that it is far more true to-day than it ever was in Franklin's day that men belong to the "ephemera," of which the sage old doctor once spoke. We live in the day, forgetful of yesterday and altogether indifferent to the morrow. If any proposal is made that seems to offer a present advantage, the people enthusiastically support it, without considering its possible conflict with all the collective wisdom of the past and its inevitable effect upon the future.

Had the founders of the Republic reasoned in this way, they would have argued that the tax on tea and the later stamp tax should be gladly accepted in return for the great benefit which the Colonies received from the mother Empire, which protected them in their infancy by her army and navy, but the founders of the Republic believed that if they could be taxed without the consent of their colonial legislatures their condition was one of vassalage, for they realize full well, as their English forbears had before them, that the power to tax is the power to destroy. The philosophic mind of Burke realized this unusual capacity of the American people to weigh the imponderables of any problem against the ponderables, and the War of Independence, in which our forbears fought for seven weary years for an abstract principle, vindicated his judgment of the American people of that great era.

Of that spirit of constitutional morality there is little evidence to-day, and it is this that has made me so pessimistic as to the perpetuity of our form of government. Each generation of Americans to gain some immediate and practical advantage will sacrifice some remaining principle of the Constitution, until that noble edifice will one day become as the Parthenon, beautiful in its ruins but nevertheless a useless and deserted temple of liberty.

Mr. RAMSEYER. Mr. Speaker, I ask unanimous consent to proceed for 10 minutes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. RAMSEYER. Mr. Speaker, on December 11, last, I had an hour here to discuss the flexible provision of the tariff, and at that time many Members of the House heard me. The gentleman from Pennsylvania [Mr. BECK] was not on the floor of the House at the time. I have a high regard for the gentleman from Pennsylvania. He is recognized not only in this country, but in other countries as an authority on matters

of constitutional law. He is an able and a successful lawyer. I heard all the debates in this House upon the flexible tariff provision and the objections made to that provision on constitutional grounds. I also heard some of the debates in the other body. The position I took here in my speech of December 11, 1929, was that the imposition of protective duties—and I wish gentlemen would get the distinction into their minds, not merely duties, but protective duties—is under the power of Congress to regulate foreign trade, and not under the power of Congress to lay and collect imposts and taxes. I have held that view for a number of years. I had never made any special research to support my view with authorities. Last fall I returned to Washington in the middle of September, thinking the House would reconvene. As you all know, we recessed three days at a time until the regular session opened in December. I devoted my time to a study of a number of phases of the tariff which I have discussed from time to time, including this flexible provision. Studying the writings of the fathers of the country, including among them James Madison, and also the decisions of the Supreme Court, I came to the conclusion that my position on this proposition was in entire accord with the views of the framers of the Constitution and of the Supreme Court. I cited then the case of Hampton *v.* United States (276 U. S. 394).

I also cited the case of Russel *v.* Williams (106 U. S. 623). In this latter case the validity of a tariff duty was in controversy. The court held that that duty was imposed as a commercial regulation. In other words, it was a protective duty imposed under the power to regulate commerce and not a revenue duty imposed under the power to levy taxes. In my speech of December 11 last I quoted from a letter written by James Madison to Joseph C. Cabell on September 18, 1828. Mr. Speaker, I now ask consent to incorporate that letter in the RECORD with my remarks.

The SPEAKER pro tempore. The gentleman from Iowa asks unanimous consent to print a letter as indicated in his remarks. Is there objection?

Mr. BECK. Mr. Speaker, I have no objection whatever, but I ask the gentleman to print the entire letter because when he last spoke there was only an extract printed, and I had not a chance to verify it.

Mr. RAMSEYER. My purpose in asking consent is to have the entire letter printed in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. RAMSEYER. The whole letter bears out my contention that protective duties are imposed under the power of Congress to regulate foreign trade. James Madison, as you know, went to the Constitutional Convention as a delegate from Virginia with a draft of a constitution in his pocket. He stayed during that entire convention and was present every day. He took notes and minutes of the proceedings. Hamilton, to whom the gentleman from Pennsylvania referred, was there only a few times and made a few remarkable speeches. Madison had more to do with the drafting of the Constitution than any other one man. Madison afterwards was a Member of this House for eight years, the first eight years under the Constitution. He became Secretary of State under Jefferson and held that office for eight years. Then he was President of the United States for eight years. In 1817 he retired from public office.

During the first 30 years the power of Congress to levy protective duties under the power of Congress to regulate foreign trade was never questioned. Beginning with 1820 after a new generation came into its own and politicians arose who wanted issues, there were politicians who took the position that a protective duty was unconstitutional. That is, they argued that the only power of Congress to impose import duties was for revenue and that a duty imposed to aid industries was unconstitutional. Madison in 1828, taking cognizance of the bitter debate in the country over the constitutionality of protective duties imposed to aid industries wrote a letter to Joseph C. Cabell, a prominent citizen of the time. The letter is dated September 18, 1828. In that letter Mr. Madison defended the constitutionality of protective duties under the power of Congress to regulate foreign trade.

I have not the time to read this letter to you. In this letter he forcibly defends the constitutional power of Congress to impose import duties to protect and foster manufactures by regulations of trade. Mr. Madison, let me repeat, probably had more to do with framing the Constitution than any other one man. During the first eight years of the Constitution he was a Member of the House of Representatives. He was Secretary of State under Thomas Jefferson, and then for eight years was President. He knew as much about the purpose and object of each clause of the Constitution as any man then living. Without intending the least disrespect to any man living or dead I can go further and say that he knew more about the purpose and object of each clause written into the Constitution than any man of his own time or since.

I have asked Members of this House who are opposed to the House flexible provision of the tariff and who claim that it is a delegation by Congress of the taxing power to the President to read this letter of Mr. Madison, and after having read it carefully to get up on the floor of the House and answer it. I now ask the gentleman from Pennsylvania [Mr. BECK] and the Democrats on the floor of the House, who seem to get a great deal of satisfaction out of the speeches of the gentleman from Pennsylvania against the flexible tariff, to read this Madison letter, which I am going to insert in the RECORD, and then get up on the floor of the House and answer Mr. Madison.

The gentleman from Pennsylvania [Mr. BECK] criticizes the conferees for inserting in the flexible provision the phrase "in order to regulate the foreign commerce of the United States." He intimates that either I or the conferees have become confused over a controversy between Great Britain and the Colonies before the Revolutionary War over the power to regulate trade and the power to tax.

In the Madison letter, which I shall have printed in the RECORD, the gentleman from Pennsylvania will find that issue referred to and answered. The first sentence in the fourth paragraph of this letter reads:

> Nor can it be inferred that a power to regulate trade does not involve a power to tax it, from the distinction made in the original controversy with Great Britain, between a power to regulate trade with the Colonies and a power to tax them.

In the fifth paragraph of the letter the gentleman will find that my position is not the result of a confusion over any controversy prior to the Revolution between Great Britain and her American Colonies. I answer him in Mr. Madison's own words, as follows:

> But the present question is unconnected with the former relations between Great Britain and her colonies, which were of a peculiar, a complicated, and, in several respects, of an undefined character. It is a simple question under the Constitution of the United States whether "the power to regulate trade with foreign nations," as a distinct and substantive item in the enumerated powers, embraces the object of encouraging by duties, restrictions, and prohibitions the manufactures and products of the country.

Now, understand me clearly, I am not quoting Mr. Madison in support of the flexible provision of the tariff approved by this House. What I am trying to impress upon you is that the administrative powers conferred upon the Tariff Commission and the President by the House flexible provision of the tariff are not a delegation of the taxing power of Congress. Under the House flexible provision the Tariff Commission and the President are given administrative powers to adjust protective duties under a rule laid down by Congress. Under the House flexible provision the Tariff Commission and the President, under a rule laid down by Congress, regulate foreign trade just as the Interstate Commerce Commission regulates interstate trade under a rule laid down by Congress. This analogy has the support of the Supreme Court in the Hampton case. I quote from the Hampton case:

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

The opponents of the House flexible-tariff provision refer to this provision as giving the Tariff Commission the power to levy taxes and that it constitutes a surrender of the taxing power by Congress to the Tariff Commission and the President. The authorities I have cited to you are clear that protective duties imposed to aid manufactures and agriculture are under the power of Congress to regulate foreign trade, and not under the power of Congress to levy taxes.

Every student of the tariff knows, or should know, that a protective duty is imposed not for the purpose of revenue. Such a duty may reduce the revenue or destroy it altogether. On this point I quote you from a letter of Mr. Madison written to Reynolds Chapman, January 6, 1831, as follows:

> If a duty can be constitutionally laid on imports, not for the purpose of revenue, which may be reduced or destroyed by the duty, but as a means of retaliating the commercial regulations of foreign countries, which regulations have for their object, sometimes their sole object, the encouragement of their manufactures, it would seem strange to infer that an impost for the encouragement of domestic manufactures was unconstitutional because it was not for the purpose of revenue, and the more strange, as an impost for the protection and encouragement of

national manufactures is of much more general and familiar practice than as a retaliation of the injustice of foreign regulations of commerce.

My main purpose in getting up here this afternoon is to get you gentlemen of this House to read Mr. Madison's letter, which I will have printed in the RECORD. I also want you to read the notes which accompany this letter that will also appear in the RECORD. If you have not the time to read both letter and notes, then read the notes, which are simply the letter in abridged form. As Madison himself states in the letter, this view that protective duties are imposed under the power of Congress to regulate foreign trade was never denied by Members of Congress who were also members of the convention which framed the Constitution and of the State conventions which ratified the Constitution.

If gentlemen here wish to oppose the flexible provision of the tariff, that is their affair. If they wish to do so they should base their opposition on the ground that they are opposed to conferring upon the President and the Tariff Commission regulatory powers over foreign trade. They should not ground their opposition on the false premise that they are opposed to conferring upon the President and the Tariff Commission the power to tax. [Applause.]

Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. RAMSEYER. Mr. Speaker, under leave to extend my remarks I present for printing in the CONGRESSIONAL RECORD a letter written by James Madison to Joseph C. Cabell, dated September 18, 1828, as follows, to wit:

TO JOSEPH C. CABELL

MONTPELIER, *September 18, 1828.*

DEAR SIR: Your late letter reminds me of our conversation on the constitutionality of the power in Congress to impose a tariff for the encouragement of manufactures; and of my promise to sketch the grounds of the confident opinion I had expressed that it was among the powers vested in that body. I had not forgotten my promise, and had even begun the task of fulfilling it; but frequent interruptions from other causes being followed by a bilious indisposition, I have not been able sooner to comply with your request. The subjoined view of the subject might have been advantageously expanded; but I leave that improvement to your own reflections and researches.

The Constitution vests in Congress expressly "the power to lay and collect taxes, duties, imposts, and excises," and "the power to regulate trade."

That the former power, if not particularly expressed, would have been included in the latter as one of the objects of a general power to regulate trade is not necessarily impugned by its being so expressed. Examples of this sort can not sometimes be easily avoided and are to be seen elsewhere in the Constitution. Thus the power "to define and punish offenses against the law of nations" includes the power, afterward particularly expressed, "to make rules concerning captures, etc., from offending neutrals." So also a power "to coin money" would doubtless include that of "regulating its value," had not the latter power been expressly inserted. The term "taxes," if standing alone, would certainly have included duties, imposts, and excises. In another clause it is said, "No tax or duty shall be laid on exports," etc. Here the two terms are used as synonymous; and in another clause, where it is said "no State shall lay any imposts or duties," etc., the terms "impost" and "duties" are synonymous. Pleonasms, tautologies, and the promiscuous use of terms and phrases differing in their shades of meaning (always to be expounded with reference to the context and under the control of the general character and manifest scope of the instrument in which they are found) are to be ascribed, sometimes to the purpose of greater caution, sometimes to the imperfections of language, and sometimes to the imperfection of man himself. In this view of the subject it was quite natural, however certainly the general power to regulate trade might include a power to impose duties on it, not to omit it in a clause enumerating the several modes of revenue authorized by the Constitution. In few cases could the "ex majori cautelâ" occur with more claim to respect.

Nor can it be inferred that a power to regulate trade does not involve a power to tax it, from the distinction made in the original controversy with Great Britain, between a power to regulate trade with the Colonies and a power to tax them. A power to regulate trade between different parts of the Empire was confessedly necessary, and was admitted to lie, as far as that was the case, in the British Parliament; the taxing part being at the same time denied to the Parliament, and asserted to be necessarily inherent in the colonial legislatures as sufficient and the only safe depositories of the taxing power. So difficult was it, nevertheless, to maintain the distinction in practice, that the ingredient of revenue was occasionally overlooked or disregarded in the British regulations as in the duty on sugar and molasses imported into the Colonies. And it was fortunate that the attempt at an internal and direct tax in the case of the Stamp Act produced a radical examination of the subject before a regulation of trade with a view to revenue had grown into an established authority. One thing at least is certain, that the main and admitted object of the parliamentary regulations of trade with the Colonies was the encouragement of manufactures in Great Britain.

But the present question is unconnected with the former relations between Great Britain and her colonies, which were of a peculiar, a complicated, and, in several respects, of an undefined character. It is a simple question under the Constitution of the United States, whether "the power to regulate trade with foreign nations," as a distinct and substantive item in the enumerated powers, embraces the object of encouraging by duties, restrictions, and prohibitions the manufactures and products of the country. And the affirmative must be inferred from the following considerations:

1. The meaning of the phrase "to regulate trade" must be sought in the general use of it; in other words, in the objects to which the power was generally understood to be applicable when the phrase was inserted in the Constitution.

2. The power has been understood and used by all commercial and manufacturing nations as embracing the object of encouraging manufactures. It is believed that not a single exception can be named.

3. This has been particularly the case with Great Britain, whose commercial vocabulary is the parent of ours. A primary object of her commercial regulations is well known to have been the protection and encouragement of her manufactures.

4. Such was understood to be a proper use of the power by the States most prepared for manufacturing industry while retaining the power over their foreign trade.

5. Such a use of the power by Congress accords with the intention and expectation of the States in transferring the power over trade from themselves to the Government of the United States. This was emphatically the case in the eastern, the more manufacturing members of the confederacy. Hear the language held in the convention of Massachusetts:

By Mr. Dawes, an advocate for the Constitution, it was observed: "Our manufactures are another great subject which has received no encouragement by national duties on foreign manufactures, and they never can by any authority in the old confederation." Again: "If we wish to encourage our own manufactures, to preserve our own commerce, to raise the value of our own lands, we must give Congress the powers in question."

By Mr. Widgery, an opponent: "All we hear is that the merchant and farmer will flourish, and that the mechanic and tradesman are to make their fortunes directly if the Constitution goes down."

The convention of Massachusetts was the only one in New England whose debates have been preserved. But it can not be doubted that the sentiment there expressed was common to the other States in that quarter, more especially to Connecticut and Rhode Island, the most thickly peopled of all the States, and having, of course, their thoughts most turned to the subject of manufactures. A like inference may be confidently applied to New Jersey, whose debates in convention have not been preserved. In the populous and manufacturing State of Pennsylvania, a partial account only of the debates having been published, nothing certain is known of what passed in her convention on this point. But ample evidence may be found elsewhere that regulations of trade for the encouragement of manufactures were considered as within the power to be granted to the new Congress, as well as within the scope of the national policy. Of the States south of Pennsylvania, the only two in whose conventions the debates have been preserved are Virginia and North Carolina, and from these no adverse inferences can be drawn. Nor is there the slightest indication that either of the two States farthest south, whose debates in convention, if preserved, have not been made public, viewed the encouragement of manufactures as not within the general power over trade to be transferred to the Government of the United States.

6. If Congress have not the power, it is annihilated for the Nation; a policy without example in any other nation, and not within the reason of the solitary one in our own. The example alluded to is the prohibition of a tax on exports, which resulted from the apparent impossibility of raising in that mode a revenue from the States proportioned to the ability to pay it; the ability of some being derived in a great measure not from their exports but from their fisheries, from their freights, and from commerce at large, in some of its branches altogether external to the United States; the profits from all which being invisible and intangible, would escape a tax on exports. A tax on imports, on the other hand, being a tax on consumption, which is in proportion to the ability of the consumers, whencesoever derived, was free from that inequality.

7. If revenue be the sole object of a legitimate impost, and the encouragement of domestic articles be not within the power of regulating trade, it would follow that no monopolizing or unequal regulations of foreign nations could be counteracted; that neither the staple articles of subsistence nor the essential implements for the public safety could, under any circumstances, be ensured or fostered at home by regulations of commerce, the usual and most convenient mode of providing

for both; and that the American navigation, though the source of naval defense, of a cheapening competition in carrying our valuable and bulky articles to market, and of an independent carriage of them during foreign wars, when a foreign navigation might be withdrawn, must be at once abandoned or speedily destroyed; it being evident that a tonnage duty merely in foreign ports against our vessels, and an exemption from such a duty in our ports in favor of foreign vessels, must have the inevitable effect of banishing ours from the ocean.

To assume a power to protect our navigation, and the cultivation and fabrication of all articles requisite for the public safety as incident to the war power, would be a more latitudinary construction of the text of the Constitution than to consider it as embraced by the specified power to regulate trade; a power which has been exercised by all nations for those purposes, and which effects those purposes with less of interference with the authority and convenience of the States than might result from internal and direct modes of encouraging the articles, any of which modes would be authorized, as far as deemed "necessary and proper," by considering the power as an incidental power.

8. That the encouragement of manufactures was an object of the power to regulate trade is proved by the use made of the power for that object in the first session of the First Congress under the Constitution, when among the Members present were so many who had been members of the Federal convention which framed the Constitution, and of the State conventions which ratified it; each of these classes consisting also of members who had opposed and who had espoused the Constitution in its actual form. It does not appear from the printed proceedings of Congress on that occasion that the power was denied by any of them. And it may be remarked that Members from Virginia in particular, as well of the anti-Federal as the Federal Party, the names then distinguishing those who had opposed and those who had approved the Constitution, did not hesitate to propose duties, and to suggest even prohibitions, in favor of several articles of her production. By one a duty was proposed on mineral coal in favor of the Virginia coal pits, by another a duty on hemp was proposed to encourage the growth of that article, and by a third a prohibition even of foreign beef was suggested as a measure of sound policy. (See Lloyd's Debates.)

A further evidence in support of the constitutional power to protect and foster manufactures by regulations of trade, an evidence that ought of itself to settle the question, is the uniform and practical sanction given to the power by the General Government for nearly 40 years, with a concurrence or acquiescence of every State government throughout the same period, and, it may be added, through all the vicissitudes of party which marked the period. No novel construction, however ingeniously devised or however respectable and patriotic its patrons, can withstand the weight of such authorities, or the unbroken current of so prolonged and universal a practice. And well it is that this can not be done without the intervention of the same authority which made the Constitution. If it could be so done, there would be an end to that stability in government and in laws which is essential to good government and good laws; a stability, the want of which is the imputation which has at all times been leveled against republicanism with most effect by its most dextrous adversaries. The imputation ought never, therefore, to be countenanced by innovating constructions without any plea of a precipitancy or a paucity of the constructive precedents they oppose, without any appeal to material facts newly brought to light, and without any claim to a better knowledge of the original evils and inconveniences for which remedies were needed; the very best keys to the true object and meaning of all laws and constitutions.

And may it not be fairly left to the unbiased judgment of all men of experience and of intelligence to decide which is most to be relied on for a sound and safe test of the meaning of a constitution, a uniform interpretation by all the successive authoriites under it, commencing with its birth, and continued for a long period, through the varied state of political contests. Or the opinion of every new legislature, heated as it may be by the strife of parties, or warped, as often happens, by the eager pursuit of some favorite object, or carried away, possibly, by the powerful eloquence or captivating address of a few popular statesmen, themselves perhaps influenced by the same misleading causes? If the latter test is to prevail, every new legislative opinion might make a new Constitution, as the foot of every new chancellor would make a new standard of measure.

It is seen with no little surprise that an attempt has been made in a highly respectable quarter, and at length reduced to a resolution formally proposed in Congress, to substitute for the power of Congress to regulate trade so as to encourage manufacturers, a power in the several States, to do so, with the consent of that body; and this expedient is derived from a clause in the tenth section of Article I of the Constitution, which says: "No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any State on imports and exports shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress."



To say nothing of the clear indications in the journal of the Convention of 1787, that the clause was intended merely to provide for expenses incurred by particular States in their inspection laws, and in such improvements as they might choose to make in their harbors and rivers, with the sanction of Congress, objects to which the reserved power has been applied in several instances at the request of Virginia and of Georgia, how could it ever be imagined that any State would wish to tax its own trade for the encouragement of manufactures, if possessed of the authority, or could in fact do so, if wishing it?

A tax on imports would be a tax on its own consumption; and the net proceeds going, according to the clause, not into its own treasury, but into the Treasury of the United States, the State would tax itself separately for the equal gain of all the other States; and as far as the manufactures so encouraged might succeed in ultimately increasing the stock in market and lowering the price by competition, this advantage also, procured at the sole expense of the State, would be common to all the others.

But the very suggestion of such an expedient to any State would have an air of mockery when its experienced impracticability is taken into view. No one who recollects or recurs to the period when the power over commerce was in the individual States, and separate attempts were made to tax or otherwise regulate it, needs be told that the attempts were not only abortive, but, by demonstrating the necessity of general and uniform regulations, gave the original impulse to the constitutional reform which provided for such regulations.

To refer a State, therefore, to the exercise of a power as reserved to her by the Constitution, the impossibility of exercising which was an inducement to adopt the Constitution, is, of all remedial devices, the last that ought to be brought forward. And what renders it the more extraordinary is, that as the tax on commerce, as far as it could be separately collected, instead of belonging to the treasury of the State as previous to the Constitution, would be a tribute to the United States; the State would be in a worse condition after the adoption of the Constitution than before, in relation to an important interest, the improvement of which was a particular object in adopting the Constitution.

Were Congress to make the proposed declaration of consent to State tariffs in favor of State manufactures, and the permitted attempts did not defeat themselves, what would be the situation of States deriving their foreign supplies through the ports of other States? It is evident that they might be compelled to pay, in their consumption of particular articles imported, a tax for the common treasury, not common to all the States, without having any manufacture or product of their own to partake of the contemplated benefit.

Of the impracticability of separate regulations of trade, and the resulting necessity of general regulations, no State was more sensible than Virginia. She was accordingly among the most earnest for granting to Congress a power adequate to the object. On more occasions than one in the proceedings of her legislative councils it was recited "that the relative situation of the States had been found on trial to require uniformity in their commercial regulations as the only effectual policy for obtaining in the ports of foreign nations a stipulation of privileges reciprocal to those enjoyed by the subjects of such nations in the ports of the United States; for preventing animosities which can not fail to arise among the several States from the interference of partial and separate regulations; and for deriving from commerce such aids to the public revenue as it ought to contribute," etc.

During the delays and discouragements experienced in the attempts to invest Congress with the necessary powers, the State of Virginia made various trials of what could be done by her individual laws. She ventured on duties and imposts as a source of revenue; resolutions were passed at one time to encourage and protect her own navigation and shipbuilding; and in consequence of complaints and petitions from Norfolk, Alexandria, and other places, against the monopolizing navigation laws of Great Britain, particularly in the trade between the United States and the British West Indies, she deliberated, with a purpose controlled only by the inefficacy of separate measures, on the experiment of forcing a reciprocity by prohibitory regulations of her own. [See Journal of House of Delegates in 1785.]

The effect of her separate attempts to raise revenue by duties on imports soon appeared in representations from her merchants, that the commerce of the State was banished by them into other channels especially of Maryland, where imports were less burdened than in Virginia. [See Journal of House of Delegates for 1786.]

Such a tendency of separate regulations was indeed too manifest to escape anticipation. Among the projects prompted by the want of a Federal authority over commerce, was that of a concert first proposed on the part of Maryland for a uniformity of regulations between the two States, and commissioners were appointed for that purpose. It was soon perceived, however, that the concurrence of Pennsylvania was as necessary to Maryland as of Maryland to Virginia, and the concurrence of Pennsylvania was accordingly invited. But Pennsylvania could no more concur without New York than Maryland without

Pennsylvania, nor New York without the concurrence of Boston, and so forth. These projects were superseded for the moment by that of the convention at Annapolis in 1786, and forever by the convention at Philadelphia in 1787, and the Constitution which was the fruit of it.

There is a passage in Mr. Necker's work on the finances of France which affords a signal illustration of the difficulty of collecting, in contiguous communities, indirect taxes, when not the same in all, by the violent means resorted to against smuggling from one to another of them. Previous to the late revolutionary war in that country, the taxes were of very different rates in the different provinces; particularly the tax on salt, which was high in the interior provinces and low in the maritime; and the tax on tobacco, which was very high in general, while in some of the provinces the use of the article was altogether free. The consequence was, that the standing army of patrols against smuggling had swollen to the number of 23,000; the annual arrests of men, women, and children engaged in smuggling, to 5,550; and the number annually arrested on account of salt and tobacco alone, to seventeen or eighteen hundred, more than three hundred of whom were consigned to the terrible punishment of the galleys.

May it not be regarded as among the providential blessings to these States that their geographical relations, multiplied as they will be by artificial channels of intercourse, give such additional force to the many obligations to cherish that union which alone secures their peace, their safety, and their prosperity? Apart from the more obvious and awful consequences of their entire separation into independent sovereignties, it is worthy of special consideration that divided from each other as they must be by narrow waters and territorial lines merely, the facility of surreptitious introductions of contraband articles would defeat every attempt at revenue in the easy and indirect modes of impost and excise, so that while their expenditures would be necessarily and vastly increased by their new situation they would in providing for them be limited to direct taxes on land or other property, to arbitrary assessments on invisible funds, and to the odious tax on persons.

You will observe that I have confined myself in what has been said to the constitutionality and expediency of the power in Congress to encourage domestic products by regulations of commerce. In the exercise of the power they are responsible to their constituents, whose right and duty it is in that, as in all other cases, to bring their measures to the test of justice and of the general good.

Mr. Speaker, I also submit for printing in the RECORD the notes accompanying this letter, as found in the Letters and Other Writing of James Madison, as follows, to wit:

NOTES

It does not appear that any of the strictures on the letters from J. Madison to J. C. Cabell have in the least invalidated the constitutionality of the power in Congress to favor domestic manufactures by regulating the commerce with foreign nations.

1. That this regulating power embraces the object remains fully sustained by the uncontested fact that it has been so understood and exercised by all commercial and manufacturing nations, particularly by Great Britain; nor is it any objection to the inference from it that those nations, unlike the Congress of the United States, had all other powers of legislation as well as the power of regulating foreign commerce, since this was the particular and appropriate power by which the encouragement of manufactures was effected.

2. It is equally a fact that it was generally understood among the States previous to the establishment of the present Constitution of the United States that the encouragement of domestic manufactures by regulations of foreign commerce, particularly by duties and restrictions on foreign manufactures, was a legitimate and ordinary exercise of the power over foreign commerce; and that, in transferring this power to the Legislature of the United States, it was anticipated that it would be exercised more effectually than it could be by the States individually. (See Lloyd's Debates and other publications of the period.)

It can not be denied that a right to vindicate its commercial, manufacturing, and agricultural interests against unfriendly and unreciprocal policy of other nations, belongs to every nation; that it has belonged at all times to the United States as a Nation; that, previous to the present Federal Constitution, the right existed in the governments of the individual States, not in the Federal Government; that the want of such an authority in the Federal Government was deeply felt and deplored; that a supply of this want was generally and anxiously desired; and that the authority has, by the substituted Constitution of the Federal Government, been expressly or virtually taken from the individual States; so that, if not transferred to the existing Federal Government, it is lost and annihilated for the United States as a Nation. Is not the presumption irresistible, that it must have been the intention of those who framed and ratified the Constitution, to vest the authority in question in the substituted Government, and does not every just rule of reasoning allow to a presumption so violent a proportional weight in deciding on a question of such a power in Congress, not as a source of power distinct from and additional to the constitutional source, but as a source of light and evidence as to the true meaning of the Constitution?

3. It is again a fact, that the power was so exercised by the first session of the First Congress, and by every succeeding Congress, with the sanction of every other branch of the Federal Government, and with universal acquiescence, till a very late date. (See the messages of the Presidents and the reports and letters of Mr. Jefferson.)

4. That the surest and most recognized evidence of the meaning of the Constitution, as of a law, is furnished by the evils which were to be cured or the benefits to be obtained; and by the immediate and long-continued application of the meaning to these ends. This species of evidence supports the power in question in a degree which can not be resisted without destroying all stability in social institutions, and all the advantages of known and certain rules of conduct in the intercourse of life.

5. Although it might be too much to say that no case could arise of a character overruling the highest evidence of precedents and practice in expounding a constitution, it may be safely affirmed that no case which is not of a character far more exorbitant and ruinous than any now existing or that has occurred can authorize a disregard of the precedents and practice which sanction the constitutional power of Congress to encourage domestic manufactures by regulations of foreign commerce.

The importance of the question concerning the authority of precedents in expounding a constitution as well as a law will justify a more full and exact view of it. (See letter of J. M. to C. J. Ingersoll, June 25, 1831, on the subject of the bank, IV, 183.)

It has been objected to the encouragement of domestic manufactures by a tariff on imported ones that duties and imposts are in the clause specifying the sources of revenue, and therefore can not be applied to the encouragement of manufactures when not a source of revenue.

But (1) it does not follow from the applicability of duties and imposts under one clause for one usual purpose that they are excluded from an applicability under another clause to another purpose, also requiring them, and to which they have also been usually applied. (2) A history of that clause, as traced in the printed journal of the Federal convention, will throw light on the subject. (See letter of J. M. to Andrew Stevenson, November 27, 1830, IV, 121.)

It appears that the clause as it originally stood simply expressed "a power to lay taxes, duties, imposts, and excises," without pointing out the objects; and, of course, leaving them applicable in carrying into effect the other specified powers. It appears further that a solicitude to prevent any constructive danger to the validity of public debts contracted under the superseded form of government led to the addition of the words "to pay the debts."

This phraseology having the appearance of an appropriation limited to the payment of debts, an express appropriation was added "for the expenses of the Government," etc.

But even this was considered as short of the objects for which taxes, duties, imposts, and excises might be required; and the more comprehensive provision was made by substituting "for expenses of Government" the terms of the old Confederation, viz, and provide for the common defense and general welfare, making duties and imposts, as well as taxes and excises, applicable not only to payment of debts, but to the common defense and general welfare.

The question then is, What is the import of that phrase, common defense and general welfare, in its actual connection? The import which Virginia has always asserted, and still contends for, is, that they are explained and limited to the enumerated objects subjoined to them, among which objects is the regulation of foreign commerce; as far, therefore, as a tariff of duties is necessary and proper in regulating foreign commerce for any of the usual purposes of such regulations, it may be imposed by Congress, and, consequently, for the purpose of encouraging manufactures, which is a well-known purpose for which duties and imposts have been usually employed. This view of the clause providing for revenue, instead of interfering with or excluding the power of regulating foreign trade, corroborates the rightful exercise of power for the encouragement of domestic manufactures.

It may be thought that the Constitution might easily have been made more explicit and precise in its meaning. But the same remark might be made on so many other parts of the instrument, and, indeed, on so many parts of every instrument of a complex character, that, if completely obviated, it would swell every paragraph into a page, and every page into a volume; and, in so doing, have the effect of multiplying topics for criticism and controversy.

The best reason to be assigned, in this case, for not having made the Constitution more free from a charge of uncertainty in its meaning, is believed to be, that it was not suspected that any such charge would ever take place; and it appears that no such charge did take place during the early period of the Constitution, when the meaning of its authors could be best ascertained, nor until many of the contemporary lights had in the lapse of time been extinguished. How often does it happen that a notoriety of intention diminishes the caution against its being misunderstood or doubted? What would be the effect of the Declaration of Independence or of the Virginia Bill of Rights if not expounded with a reference to that view of their meaning?

Those who assert that the encouragement of manufactures is not within the scope of the power to regulate foreign commerce, and that a tariff is exclusively appropriated to revenue, feel the difficulty of finding authority for objects which they can not admit to be unprovided for by the Constitution; such as insuring internal supplies of necessary articles of defense, the countervailing of regulations of foreign countries, etc., unjust and injurious to our navigation or to our agricultural products. To bring these objects within the constitutional power of Congress, they are obliged to give to the power "to regulate foreign commerce," an extent that at the same time necessarily embraces the encouragement of manufactures; and how, indeed, is it possible to suppose that a tariff is applicable to the extorting from foreign powers of a reciprocity of privileges and not applicable to the encouragement of manufactures, an object to which it has been far more frequently applied?

BUST OF THE LATE SPEAKER CLARK

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to speak for three minutes.

The SPEAKER pro tempore. The gentleman from Mississippi asks unanimous consent to address the House for three minutes. Is there objection?

Mr. STALKER. I object.

Mr. RANKIN. Then, Mr. Speaker, I make the point of order that there is no quorum present.

Mr. STALKER. Mr. Speaker, I will withdraw my objection.

Mr. RANKIN. Then, I will withdraw my point of order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. RANKIN. Mr. Speaker, I want to call attention to a matter that I think somebody ought to look into.

A few years ago there served in this House two parliamentary giants. They occupied high places in this House and in the Nation. I refer to Champ Clark and James R. Mann.

Some time ago Congress provided for a statue or bust of each one of these men, to be placed out there, almost at the entrance to this Hall. The name of Mr. Mann is carved on his bust, but for some reason the name of Champ Clark is left off his. Sometime ago I saw some schoolgirls looking at those busts, and one said, pointing to the bust of Mr. Clark, "Who is this?" For a time none could answer her; finally one of them said, "Oh, it is McKinley." They went off laughing at what they called their lack of knowledge and considered themselves as somewhat "dumb" in not knowing McKinley's bust when they saw it.

The name of Martin B. Madden is also engraved on his bust, and that is proper. But whoever is responsible ought to see that the name of Champ Clark is engraved on his bust in order that all visiting Americans, all passers-by, may know that it is the representation of the great Missourian whom we all admired and loved.

Mr. CRISP. Mr. Speaker, I may say that I have talked with the Architect of the Capitol about this, and he said the artist who carved the bust of Mr. Mann put Mr. Mann's name on it all right, but he said the Clark bust was carved by another artist. He said he would see to it that the artist put the name of Mr. Clark on the Clark bust.

Mr. RANKIN. The question has not been raised up to this time, but I raise it now, and I insist that it be done. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Mississippi has expired.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed without amendment a bill and concurrent resolution of the House of the following titles:

H. R. 10082. An act to authorize the attendance of the Marine Band at the national encampment of the Grand Army of the Republic at Cincinnati, Ohio; and

H. Con. Res. 33. Concurrent resolution requesting the President to return to the House of Representatives H. R. 185.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 15) to amend the act entitled "An act to amend the act entitled 'An act for the retirement of employees in the classified civil service, and for other purposes,' approved May 22, 1920, and acts in amendment thereof," approved July 3, 1926, as amended.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 39 and 43 to the bill (H. R. 7955) entitled "An act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1931, and for other purposes."

The message also announced that the Senate insists upon its amendments to the bill (H. R. 12205) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROBINSON of Indiana, Mr. NORBECK, and Mr. WHEELER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 11965) entitled "An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JONES, Mr. SMOOT, Mr. HALE, Mr. BROUSSARD, and Mr. COPELAND to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 12013) entitled "An act to revise and equalize the rate of pension to certain soldiers, sailors, and marines of the Civil War, to certain widows, former widows of such soldiers, sailors, and marines, and granting pensions and increase of pensions in certain cases," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROBINSON of Indiana, Mr. NORBECK, and Mr. WHEELER to be the conferees on the part of the Senate.

CLOSING OF CENTER MARKET, WASHINGTON, D. C.

Mr. McLEOD. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up Senate Joint Resolution 77.

The SPEAKER pro tempore. The gentleman from Michigan, by direction of the Committee on the District of Columbia, calls up Senate Joint Resolution 77, which the Clerk will report.

The Clerk read as follows:

Senate Joint Resolution 77

Joint resolution providing for the closing of Center Market in the city of Washington

*Resolved, etc.*, That the Secretary of Agriculture is authorized and directed to give notice that the Government will cease to maintain the public market known as Center Market in the city of Washington after June 30, 1930. The buildings used and occupied for the purposes of such market shall be vacated on or before such date.

With a committee amendment as follows:

Strike out all after the enacting clause and insert: "That on January 1, 1931, or 60 days after notice is given by the Secretary of Agriculture, which notice shall not be given before September 1, 1930, all leases and contracts made by the Secretary of Agriculture under authority of the act entitled 'An act to repeal and annul certain parts of the charter and lease granted and made to the Washington Market Co. by act of Congress entitled "An act to incorporate the Washington Market Co.," approved May 20, 1870,' approved March 4, 1921, shall terminate and expire, and thereafter the property known as Center Market in the District of Columbia shall no longer be used as a public market."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate joint resolution as amended.

The Senate joint resolution as amended was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the Senate joint resolution was passed was laid on the table.

STREET-CAR FARES, SCHOOL CHILDREN

Mr. McLEOD. Mr. Speaker, I call up the bill (H. R. 12571) to provide for the transportation of school children in the District of Columbia at a reduced fare.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. McLEOD] calls up the bill H. R. 12571, which the Clerk will report.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That after the expiration of 30 days from the date of the enactment of this act the rate of fare for the transportation of children going to or from public schools in the District of Columbia upon street-railway or motor-bus lines in the District of Columbia shall be 2 cents. The Public Utilities Commission of the District of Columbia shall have power to determine which students live far enough from school or have physical disabilities such as would require transportation at reduced fare, and the Public Utilities Commission is hereby authorized and directed to make such rules and regulations as may be necessary to carry out the purposes of this act.

Mr. STAFFORD. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. STAFFORD. As I understand, the two street-car companies operating in the District of Columbia claim that the present rate of fare charged is not remunerative and is virtually without profit in the operation of the system. They have been contending here for some time for a higher rate of fare. I wish to direct this question to the gentleman from Michigan [Mr. McLEOD], whether the committee has considered in the consideration of this bill that the lowering of the rate for some of the users of our street cars might be considered by the courts confiscatory, and therefore not constitutional under that clause of the Constitution which does not authorize the taking of private property without due compensation?

Mr. McLEOD. I will say to the gentleman from Wisconsin [Mr. STAFFORD] relative to the constitutional question that the gentleman raises that for the past several years more than 15 cities of the United States have special reduced fares for school children. The object of this bill is to give them a reduced rate. The question was before the committee of giving a free fare. It was felt by the committee for the reason that schoolbooks are free in the District of Columbia and that education is free in the public schools of the District of Columbia, it was a great hardship on the parents of those children to send their children to school sometimes a distance of 2 miles, and reduced fares is in the same category and in the same order of taking care of the children, as has been done elsewhere relative to their education.

Mr. STAFFORD. I can understand, and every Member present can understand that in a general bill covering the proposition of fares in general, it would be entirely consistent to incorporate in that bill a provision granting either free fares or much lower fares for school children, but I am directing my inquiry to the question as to whether it is in the constitutional power of Congress assuming that the present fares are not compensatory, to pass this character of legislation, prescribing a lower rate of fare than that now charged?

Mr. McLEOD. It is within the jurisdiction of the public utilities commission which may be in existence in any of the great municipalities to fix the rate of fare not only for children but for adults.

Mr. STAFFORD. This bill does not leave it to the discretion of the Public Utilities Commission of the District of Columbia to fix respective fares, but this bill by congressional mandate prescribes the rate of fare for the carriage of school children at 2 cents.

Of course, the gentleman from Michigan [Mr. McLEOD] is acquainted with the decisions of the Supreme Court that where State legislatures have attempted to prescribe a mileage rate, where it was shown not compensatory, the Supreme Court has decided it was beyond the power of the public utilities commission or the legislatures to prescribe noncompensatory rates. I am just asking whether the committee considered that phase of the question?

Mr. McLEOD. I would say that the question as to the constitutionality of the proposition was never raised in the committee relative to the 12 or 15 cities that now have these reduced fares.

Mr. STAFFORD. But in that instance the rate of fare to be charged for the carriage of school children may have been part and parcel of a general fare ordinance or provision. They may have made adequate compensation provision in other particulars, and the street-car companies could not have then claimed that the reduction was not compensatory. But it is stated here that in spite of the fact that the present rate of fare is not compensatory you shall carry this class of patrons at a less fare than a compensatory rate.

Mr. McLEOD. We do not say the present fare is not compensatory.

Mr. STAFFORD. That has been the contention of the street-car companies for several years.

Mr. HOOPER. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. HOOPER. I did not hear the first part of the gentleman's statement, and perhaps the question I want to ask has been answered. I notice it is stated that the rate of fare is changed for the transportation of children. Is the term "children" defined anywhere as to age?

Mr. McLEOD. School children.

Mr. HOOPER. Does it mean children in the grades or in the kindergarten, or does it go to the extent of meaning children in high schools?

Mr. McLEOD. All children in all grades.

Mr. HOOPER. That would mean through and including the high schools?

Mr. McLEOD. Yes.

Mr. HOOPER. Is it not rather a sweeping piece of legislation to change the rate of fare in this way by this sort of a bill? Does it not occur to the gentleman that that is rather sweeping legislation in a district of 500,000 people to insist that the street-car company shall carry all school children at less fare than other people?

Mr. BOWMAN. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. BOWMAN. General Patrick, chairman of the Public Utilities Commission, testified before the District Committee that if Congress passed legislation that would reduce the fares of school children, it would necessarily have to raise the fare of adults in the District of Columbia.

Mr. HOOPER. Of course, it would mean the putting on of extra cars at school hours, would it not?

Mr. BOWMAN. Absolutely.

Mr. STAFFORD. Especially in view of the fact that it extends to high-school students. The very time when they are going to or coming from school would be at the time of the peak load of carrying passengers in the District of Columbia when the department clerks are going to or coming from work.

Mr. McLEOD. I think not. The schools are out between 3 and 4 o'clock, and there is no department that closes before 4.30 p. m.

Mr. STAFFORD. I have seen them out on the streets, especially during the summer season, before 4 o'clock.

Mr. HOOPER. Does this include private schools as well as the public schools?

Mr. McLEOD. No; only the public schools.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. CHINDBLOM. Did Congress fix the rates of fare charged street-car passengers in the District of Columbia?

Mr. McLEOD. Not to my knowledge.

Mr. CHINDBLOM. How have the present fares, both for adults and for children, been fixed?

Mr. McLEOD. By the Public Utilities Commission.

Mr. CHINDBLOM. Has it not been done after conference or under some arrangement or agreement with the companies themselves?

Mr. McLEOD. They have never been able to reach a satisfactory arrangement. As a matter of fact, the case that is now pending before the Supreme Court was first heard by the Public Utilities Commission.

The Public Utilities Commission refused to grant an increased fare, and the street-car companies, claiming that they are still correct, have their case now pending.

Mr. CHINDBLOM. The street-car companies are operating under a franchise, I presume, which has been granted to them by the Public Utilities Commission under authority of legislation passed by Congress?

Mr. McLEOD. Yes.

Mr. CHINDBLOM. Nothwithstanding that franchise and notwithstanding the contractual relation that may be existing, we are now proposing to legislate a rate of fare for children. No matter how appealing the subject matter may be, I am asking these questions in the interest of what I consider to be proper legislation upon a matter which is the subject of a contract.

Mr. BOWMAN. Will the gentleman yield?

Mr. McLEOD. Yes.

Mr. BOWMAN. In most cases where there is a reduced carfare for children it has come about primarily by a contract between the board of education and the street-car company. In other words, the boards of education in various communities have made contracts for the transportation of these children to public schools, but this legislation attempts to fasten upon the street-car companies a reduced fare for school children, which will eventually result in an increased fare for adults in the District of Columbia.

Mr. STALKER. I will say to the gentleman that the amount involved here is only $15,000 per annum.

Mr. HOOPER. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. HOOPER. Does not this throw an enormous and unprecedented burden upon the Public Utilities Commission? Under this bill there would have to be—at least as I look at its terms—an application made by thousands of children or their parents to the Public Utilities Commission, and the commission would have placed upon it the burden of determining, out of thousands and thousands of children, what children were entitled to the privilege of this reduced fare; and would not that involve them in continual dispute as to what children should be entitled to the reduced rate and what children should not?

Mr. McLEOD. That question was discussed in the committee, and it was determined at that time and agreed to by

General Patrick, the chairman of the commission, that the Board of Education could readily issue certain cards to those who were entitled to this reduced transportation, if it were shown by them that the distance of their homes from the schools was too great for them to attend school.

Mr. HOOPER. Does not my colleague think that in legislation of this character there should be a fixed and certain method provided by which the Public Utilities Commission should work and that certain rules should be laid down in the legislation for them as to how they are to act, as to how they are to discriminate, and as to how they are to determine these questions?

Mr. McLEOD. The committee did not feel it was qualified to make regulations as to how this should be handled. Knowing that the commission would have the facilities of the Board of Education in bringing this about, it was determined by the members of the Public Utilities Commission present at the hearing that this matter could be taken care of, eliminating any question of an increase to the street-car companies.

Mr. HOLADAY. Will the gentleman yield?

Mr. McLEOD. Yes.

Mr. HOLADAY. I notice the bill provides that—

The Public Utilities Commission of the District of Columbia shall have power to determine which students live far enough from school or have physical disabilities such as would require transportation at reduced fare.

Under that would not any and all children have the right to file an individual petition with the Public Utilities Commission for a hearing on their specific cases?

Mr. McLEOD. If the Public Utilities Commission saw fit to handle it in that way, but the utility commissioners thought that the way the matter would be handled would be by the Board of Education recommending that certain children living far enough from school be transported at this reduced rate of fare. That is the way it was suggested the matter could be handled.

Mr. HOOPER. Will the gentleman yield again?

Mr. McLEOD. Yes.

Mr. HOOPER. Do the policemen, the mail carriers, and other public servants in the District have the right to ride on the street cars without charge?

Mr. McLEOD. I believe they have that right.

Mr. HOOPER. If they have that right, and all of the school children, or many of the school children in the District, have that right, would there not be a precedent to which other people might appeal providing for still other classes of people to ride at a reduced fare, which would be just as consistent and feasible as legislation of this sort before us?

Mr. McLEOD. The gentleman couples the school children with the policemen and firemen and says they would ride free, but this bill provides that school children shall pay 2 cents.

Mr. HOOPER. Why should not the teachers ride free?

Mr. McLEOD. No one is designated to ride free; even the children do not ride free.

Mr. HOOPER. Well, why should not the teachers ride for 2 cents?

Mr. McLEOD. I might say that in Pasadena, Calif., the children ride for 2 cents; in San Francisco, 2½ cents; Sacramento, 2½ cents; Birmingham, Ala., 2½ cents; Springfield, 3½ cents; Oakland, Calif, 3½ cents; Omaha, 3½ cents; Cleveland, 3½ cents; Ogden, Utah, 2½ cents; Troy 3 cents; Dallas, 3½ cents; Los Angeles, 3½ cents; San Antonio, 3½ cents; Richmond, 3½ cents; and Seattle, 2½ cents.

Mr. HOOPER. Has there been a complete study made as to what effect this would have upon the financial program of the street-car companies here?

Mr. McLEOD. It has been suggested that by reason of the taxicab war which seems to be pending at the present time, much of the transportation carried by the street-car companies has reverted to the taxicabs, and this is being seriously felt by the street-car companies, and it is believed that the additional children who would ride for 2 cents would be of benefit to the street-car companies.

Mr. HOOPER. At the hearings held before the committee were the street-car companies represented at all?

Mr. McLEOD. Yes.

Mr. HOOPER. What was their attitude toward this legislation?

Mr. McLEOD. I will say to the gentleman that this question was discussed in committee when the merger bill was being heard and this bill was offered as an amendment to the merger bill and stands to-day identical to an amendment in that bill. The two companies were represented by their presidents at that time.

Mr. HOOPER. Was there any estimate made as to what would be the cost in a year to the railroad company of additional equipment, additional men, and other additional overhead expenses?

Mr. McLEOD. The gentleman from New York [Mr. STALKER], a member of the committee, just informed the House that the cost for carrying these children might amount to about $15,000.

Mr. HOOPER. A year?

Mr. McLEOD. A year.

Mr. CHINDBLOM. The gentleman said there was a hearing on the merger legislation at which the representatives of the companies were present. Have the companies been heard on this bill (H. R. 12571)?

Mr. McLEOD. No; but they were heard on the amendment that was in the other bill.

Mr. CHINDBLOM. That was a part of a general scheme for the merger of the companies and embraced the entire subject of all fares.

Mr. McLEOD. Yes.

Mr. BOWMAN. Will the gentleman yield?

Mr. McLEOD. Yes.

Mr. BOWMAN. Reduced car fare for school children was an amendment in the merger bill only.

Mr. CHINDBLOM. And the merger bill covered the entire question of rate making, did it not?

Mr. BOWMAN. Absolutely. The merger bill simply gave to the Public Utilities Commission the right to determine the fare for school children. The Public Utilities Commission claim they have no right at the present time to determine fares for school children.

Mr. TABER. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. TABER. Under the first sentence of this bill there is an absolute provision that all school children, regardless of anything, shall pay fare at the rate of 2 cents. Now, what is the possible meaning of the rest of the language, that some may apply for a lower fare than that, or what?

Mr. McLEOD. What part of the language does the gentleman refer to?

Mr. TABER. The rest of the language of the bill after the words "2 cents." It is perfectly clear down that far that you have provided that all school children shall pay 2 cents going to and from school. The rest of the language is for what purpose?

Mr. McLEOD. The rest of the bill determines who shall ride at that rate of fare.

Mr. TABER. I beg the gentleman's pardon, but it does not. You have provided that all school children shall ride at 2 cents and then you have some language after the words "2 cents" that has no definite meaning whatever.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. McLEOD. Yes.

Mr. CHINDBLOM. There is apparently a difference. The first part relates to children going to or from the public schools in the District of Columbia, and the second part relates to students who live far enough from school or have physical disabilities, and so on.

Mr. TABER. Are not students and school children the same thing?

Mr. CHINDBLOM. Whether it is intended they shall be the same thing does not appear.

Mr. TABER. I do not think the language is clear enough so that it would be safe for the House to consider it.

Mr. STAFFORD. If the gentleman will permit, I read the second sentence in connection with the first, and I thought the Utility Commission was going to have the power to determine what class of school children should have these street car fare privileges. Certainly, we are not going to give this privilege to children who would only have to ride a block.

Mr. McLEOD. No; that is why the second provision is in the bill.

Mr. TABER. It is not a limitation.

Mr. STAFFORD. Then I will repeat the question directed by the gentleman from New York as to whether the word "students" should not be changed to "school children," so it will read, "which said school children."

Mr. HULL of Wisconsin. If the gentleman will permit me to explain; you have a provision now for carrying disabled children, children who are ill and not able to walk to the various schools. The second part of the bill relates to the same kind of regulation you now have under the orders of the Public Utility Commission for the carrying of those children. The first part provides that all school children may be carried at a 2-cent rate.

As to the power of the Congress and the power of the commission, Congress has ample power to regulate the rates of street-car fares in the District of Columbia. It can delegate that power and has, in a general way, delegated that power

to the Public Utilities Commission. So far, so good; but under the power so far delegated to the commission it has not the power to provide free fares, or smaller or reduced fares, to the school children who are particularly interested in this measure, and that is the object of this bill. So far as the revenues of the companies are concerned, none of the presidents or attorneys appearing for the companies before the committee violently objected to that feature of the subcommittee's report fixing the fare at two cents, or even to free fares. They made no strenuous objections to it.

Mr. BOWMAN. If the gentleman will yield there, the street-car companies had no opportunity to appear at a hearing on this particular bill.

Mr. HULL of Wisconsin. Not on this particular bill, but the subject was taken up in connection with a proposed merger bill which was not reported out by the committee, and the subject was thoroughly gone over, and if you will take the report on the merger bill you will find there was no fight on the part of the companies to this proposition.

Mr. STAFFORD. Provided they were compensated by higher fares to be charged to adults using the service, I presume.

Mr. HULL of Wisconsin. And, furthermore, those companies now have an application pending in the courts for an increase of fare regardless of whether you pass this bill or not. Furthermore, while the merger bill was under consideration, with all the advantages that bill would have given the companies, they went on to say that if that bill were enacted into law they would not foreclose themselves from going into court and asserting their constitutional privileges, and bringing about a still higher rate of fare than that considered in the present application before the courts.

Mr. STAFFORD. Then, as I understand my colleague's position, this bill has two purposes: First, to grant a 2-cent fare to all school children going to and from school, and an additional privilege of conferring upon the Utility Commission the authorization to include certain students living far enough away and for physical disability.

Mr. HULL of Wisconsin. They have that latter privilege now.

Mr. STAFFORD. The gentleman takes a different position in the interpretation of the bill than does the chairman.

Mr. HULL of Wisconsin. I can not help that.

Mr. TABER. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. TABER. I am going to suggest that if this legislation is passed we adopt an amendment so that the legislation will be clear. I suggest that after the word "children" in line 5, you insert the words "found entitled to reduced fares as hereinafter provided." And on line 9 strike out the word "student" and insert the words "school children" so that the same term will be used throughout the bill. Will the committee agree to it?

Mr. McLEOD. The committee will accept that amendment.

Mr. HOLADAY. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. HOLADAY. Is it the intention that this should apply to normal-school children? They are children under age going to public school.

Mr. TABER. It would be better if the term "school children" were further defined.

Mr. McLEOD. The bill reads "public schools."

Mr. HOLADAY. Normal schools are public schools.

Mr. TABER. The bill reads to children going to and from public schools.

Mr. HOLADAY. What about an 18-year-old girl going to normal school?

Mr. McLEOD. She would come within the legislation.

Mr. HOLADAY. How would it be if she were over 21 years of age?

Mr. McLEOD. We did not intend to include those.

Mr. WHITLEY. Why are parochial schools excluded?

Mr. McLEOD. Because the city of Washington has nothing to do with children going to parochial or private schools.

Mr. CLARK of Maryland. Will the gentleman yield?

Mr. McLEOD. Yes.

Mr. CLARK of Maryland. Do I understand that there are 15 cities in the United States that have a reduced fare for school children?

Mr. McLEOD. That is right.

Mr. CLARK of Maryland. Were they established voluntarily or were they imposed by legislation?

Mr. McLEOD. I can not answer that; I only know the fact that they have reduced fares.

Mr. CLARK of Maryland. I think the gentleman will find that for special reasons they have been voluntarily established by the railway companies. I do not think that you will find that they have been imposed on the companies by legislation. Will the gentleman state whether the Public Utilities Commission of the District has been given the right by Congress to fix fares?

Mr. McLEOD. They have the right to fix fares.

Mr. CLARK of Maryland. Is there any special reason why Congress should act directly with respect to fares of school children instead of leaving the matter to the commission?

Mr. HULL of Wisconsin. The reason is, that under the law as it exists now, the commission has no right to grant special fares for school children. It is proposed in this bill to fix the rates, as Congress has the right to do.

Mr. CLARK of Maryland. Congress having established a rate-making body, why not give the commission the authority to fix the fares for school children, or commutation fares?

Mr. HULL of Wisconsin. Because we have the undoubted right to fix fares here and the commission has taken the position that it has not the right to change them. Instead of giving it a broader power and letting it fix the rate, Congress should take into consideration the fact that the parents are unable to pay the fares for these children who live long distances from school and determine what the rate shall be. We are asking Congress to consider the plight of these school children, the necessity of lower fares for them, in order to advance the cause of education in the District of Columbia. We recognize the fact that it may be necessary for this added expense to go into the general total, and to come in for consideration when these companies go before the commission and the courts, as they are constantly doing, to get an increase in fares for adults, but the cost of this rate for children would be so small that there would not be a cent's difference nor a half cent's difference in the fares paid by adults; so there is no reason why Congress should not at this time take into consideration these poor children who need this reduction. There is no reason why Congress should not exercise the authority which it has to fix the rate, nor to quibble whether the railway company wants it, or the Public Utilities Commission will grant it to them, but simply take into consideration the people who need this reduction and give it to them.

Mr. CLARK of Maryland. Congress has not waived any of its rate-fixing power in this matter, and neither has any State waived its rate-fixing power by the establishment of utility commissions, but when utility commissions are established, they are established for the purpose of hearing all of the facts that have any bearing on the fairness of the charge, which takes into consideration, of course, the valuation or rate base and other matters bearing on the question of the fairness of the charge.

When Congress established this Public Utilities Commission, it established it for the purpose of conducting hearings having any bearing on all questions of charges for street-car service. Here we are being asked to vote on the question of a fare, when we are not in possession of the facts that are necessary for us to determine whether this is a just fare. Here is a report consisting of just a page and a half. It does not set out the necessary facts to enable me, and I am sure other Members of Congress, to determine whether this 2-cent fare is just and proper.

Mr. HULL of Wisconsin. I would like to say to the gentleman that the point is that Congress has not given the commission power to discriminate between the adult and the school child. This bill asks Congress to take into consideration the fact that there are a large number of poor people living a wide distance from their schools, and the necessity of transporting these pupils at a moderate rate, in order that they may go to school and obtain an education.

Mr. CLARK of Maryland. If the law is not broad enough, let us broaden the law.

Mr. HULL of Wisconsin. It is the same system that various States have made for the transportation of children to school. Thousands of school children in the rural districts are being transported free of cost to the schools. This is a proposition of applying that transportation system to the young children of this District, and that is all it is. The question involved is not the power of Congress, not what the Public Utilities Commission might do; but the question is whether Congress is going to recognize this situation and come to the aid of these poor children in the manner this bill sets forth, and that is all there is to it.

Mr. CLARK of Maryland. Would the gentleman have any objection to giving our rate-fixing body, established by Congress, the power to fix such a fare?

Mr. HULL of Wisconsin. I would like to answer the gentleman, but in order to answer him it might be necessary to refer to the action of the commission in regard to other matters of transportation in this district, and that I do not care to do at this time. It is a question of whether or not we are going

to help the poor children in the District of Columbia, and that is the whole proposition.

Mr. HOOPER. Mr. Speaker, let me ask the gentleman from Maryland a question. The gentleman is a student of public utility commissions and their functions and the laws governing rates. Is not this pretty close to confiscation?

Mr. CLARK of Maryland. I have no doubt about what the judgment of a court would be upon this proposed law, but, Congress having established a body for the purpose of weighing and determining such cases, it seems to me that we should not now depart from that policy and attempt to fix a street car fare by direct enactment.

Mr. ARENTZ. Mr. Speaker, will the gentleman yield?

Mr. McLEOD. Yes.

Mr. ARENTZ. Apparently this bill is thought necessary because throughout the length and breadth of our country in the rural districts children are being transported to schools in busses free of charge. I would like to see some provision placed in this bill which would follow out the practice in the rural districts. To be fair to the public service corporations, and I hold no brief for them because I am in favor of the ordinary individual rather than the corporation, it would seem to me that Congress should provide some payment to cover the cost of the transportation of these children, I think they should receive a low fare or even a free fare, but the District of Columbia and the Federal Government jointly should pay for it.

As the gentleman from Maryland [Mr. CLARK] has so well said, in reply to the question of the gentleman from Michigan, this amounts to confiscation. Besides, it is merely stepping in and paving the way for a 10-cent fare in the future. I expect just as much as I know that I am standing here to-day, that there will be a 10-cent fare levied on the people of the District, if this bill is enacted, upon the foundation that you are erecting here to-day, that is, a 2-cent fare for children without reimbursement.

Mr. STALKER. There is only $15,000 involved in the bill.

Mr. ARENTZ. Then, why not pay it and eliminate any possibility of the corporation coming in and asking for a 10-cent fare?

Mr. STALKER. Why, this does not amount to one-quarter of 1 per cent when we are talking about an increase of 3 cents in the adult fare.

Mr. ARENTZ. But you are merely paving the way for charging the man and wife who are supporting these children an increased street-car fare.

Mr. HULL of Wisconsin. The companies are now in the courts after an increased fare, claiming that the present rate of fare fixed by the commission in this District is confiscatory.

Mr. ARENTZ. The profits being paid by the corporations will either justify that or not. It is my opinion that they are not justified in asking for a 10-cent rate, or even a 9-cent fare.

Mr. HULL of Wisconsin. What if the court decides the other way?

Mr. ARENTZ. Then it is my opinion that we can do as we have done in other cases, hold it up until we can decide on whether they are going to exist in the District of Columbia at all or not.

Mr. ARNOLD. Mr. Speaker, will the gentleman from Michigan yield?

Mr. McLEOD. Yes.

Mr. ARNOLD. By this legislation we are clearly circumventing the authority that was given to the Public Utilities Commission.

Now, does not the gentleman realize that if legislation of this kind is to be passed it should not take the form of a positive direction to the Public Utilities Commission to fix the rate to the school children at the lower rate provided for? It seems to me we have created an agency here to regulate and exercise supervision over rates, and now we are taking authority away from that commission arbitrarily without having made any study whatever as to the necessity of it or the condition that would justify it. This bill directly fixes the rate of fare for school children at 2 cents by congressional enactment, and the Public Utilities Commission has nothing whatever to say or do as to the rate for school children.

Mr. McLEOD. We are trying to give the Public Utilities Commission the power.

Mr. ARNOLD. If we were to direct the Public Utilities Commission to give a lower rate for school children provided this legislation is justifiable, then we would be consistent; but in giving absolute direction to the agency which Congress has created we are circumventing that agency.

Mr. McLEOD. It is a question whether the people would prefer this legislation.

Mr. ARNOLD. The question is as to the method you are pursuing here to accomplish the purpose. It seems to me entirely improper for the strong arm of Congress to step in and arbitrarily fix the rate at 2 cents. If it should be fixed at 2 cents, let us direct the Public Utilities Commission to consider the question on that basis.

Mr. HOOPER. Mr. Speaker, will my colleague yield?

Mr. McLEOD. Yes.

Mr. HOOPER. I think that everybody in this House would want to see any advantage given to the school children which it is possible to give them. I do not think anyone would question that, or that anyone who is opposed to the terms of this bill would be opposed to giving the school children all the advantage they could possibly have. But it seems to me the House is treading on very dangerous ground if it passes this bill and enacts it into law and reduces by one sweeping gesture the rate of fare from 8 cents to 2 cents under the circumstances outlined in this bill. It seems it is verging as nearly on confiscation as anything I have ever heard proposed or urged in the House of Representatives since I have been a Member here.

If this legislation is passed, it seems to me that at once a great number of people will try to take advantage of it. The Public Utilities Commission will be powerless, and the street-car companies will have to put on extra rolling stock under the circumstances. When the street-car companies are called upon to carry out this provision the question will be raised in the courts whether this provision is confiscatory or not. It seems to me that it is confiscation when it reduces the rate of fare down to a point where it will not be profitable, but highly unprofitable for the street-car lines to follow this law. I believe this question should be put up to the Public Utilities Commission of the District of Columbia, and that it should be left to them to determine what rate would be confiscatory and what rate would not be confiscatory.

Mr. McLEOD. I will say to the gentleman that that has already been done.

Mr. HULL of Wisconsin. The commission has already studied this question. If you are going to make this rate the same as the adult rate, there is no possible way by which you can establish a cheaper fare. You can not say that one person, occupying half a seat, should pay less than another person occupying the other half of the seat. This measure would affect the company in such a small way that they are not likely to go into court and complain of its being confiscatory.

Mr. HOOPER. Can the gentleman state the approximate number of children who would take advantage of the lower rate?

Mr. McLEOD. Some 50,000. It will cost about $30,000 per annum, but by the reduction estimated in this bill it is believed that it will actually not cost more than $15,000.

Mr. HOOPER. How many children is it estimated would ride at 2 cents a fare?

Mr. McLEOD. All those who would have to ride from a sufficient distance from their homes to the schools.

Mr. HOOPER. That is what I am asking.

Mr. McLEOD. About 50,000 children. About $15,000 would be the estimated cost.

Mr. BOWMAN. Fifty-seven thousand school children would have the right to ride on the 2-cent fare.

Mr. TAYLOR of Colorado rose.

The SPEAKER pro tempore. Does the gentleman from Michigan [Mr. McLEOD] yield to the gentleman from Colorado?

Mr. McLEOD. Yes.

Mr. TAYLOR of Colorado. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting a brief address that I made over the Columbia Broadcasting system to-day, inviting the general Federation of Women's Clubs of the United States to come to the State of Colorado for their annual meeting next month.

The SPEAKER pro tempore (Mr. CHINDBLOM). Without objection, the Chair will recognize the gentleman from Colorado without prejudice to the rights of the gentleman from Michigan [Mr. McLEOD] and submit the request of the gentleman from Colorado.

The gentleman from Colorado [Mr. TAYLOR] asks unanimous consent to extend his remarks by printing an address made by himself with reference to a meeting of women's clubs in Colorado. Is there objection?

There was no objection.

(The matter referred to appears below after the conclusion of the consideration of H. R. 12571.)

Mr. STAFFORD. Will the gentleman from Michigan [Mr. McLEOD] yield?

Mr. McLEOD. I yield.

Mr. STAFFORD. Does the gentleman propose to offer any amendments to the bill?

Mr. McLEOD. Yes.

The SPEAKER pro tempore. The Chair will state that if amendments are offered they should be offered now.

Mr. McLEOD. Mr. Speaker, I offer an amendment.

The SPEAKER pro tempore. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. McLEOD: Page 1, line 5, after the word "children" insert the words "found entitled to reduced fare as hereinafter provided";

And on page 1, line 9, strike out the word "students," and insert in lieu thereof the words "school children."

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. McLEOD) there were—ayes 21, noes 14.

So the bill was passed.

Upon motion of Mr. McLEOD, motion to reconsider the vote by which the bill was passed was laid on the table.

COLORADO AND THE CONVENTION OF THE GENERAL FEDERATION OF WOMEN'S CLUBS

Mr. TAYLOR of Colorado. Mr. Speaker, under authority granted me heretofore, I insert in the RECORD a brief address that I delivered to-day over the Columbia Broadcasting system, WMAL, Washington, D. C., to the ladies of the General Federation of Women's Clubs throughout the country, inviting them to come to Colorado and attend their annual convention in Denver, from the 5th to 14th of next month, as follows:

RADIO ADDRESS OF CONGRESSMAN EDWARD T. TAYLOR OF COLORADO, MAY 26, 1930

Ladies of the General Federation of Women's Clubs from every State and clime wherever you may be affiliated, I most highly appreciate the privilege of addressing you through the courtesy and by invitation of the Colorado Federation of Women's Clubs.

All Colorado is supremely proud to be honored by a convention of your great organization.

Denver is the great western convention city, and entertains a great many of them every year; but she has never entertained one that all Colorado feels more kindly toward, or has a higher appreciation of, than we all do for the General Federation of Women's Clubs.

Our entire population wants you all to come and see what a Colorado welcome means. We know you will have one continuous charming and surprising delight.

We Coloradans all firmly believe that Denver is one of the most modern, up to date, and beautiful cities in the world, and that our capital city richly deserves the proud distinction of being universally known as "The Queen City of the Mountains and Plains." Her parks, boulevards, and scenic drives are unsurpassed anywhere.

We want you to also get out and see something of our State during your visit. And I want to tell you just a few things about one of the most unique States in the Union. No one can do justice to Colorado in five minutes or five days.

Colorado was admitted into the Union in 1876, the centennial year, and has ever since been known as "The Centennial State." By actual geological survey it is the highest State in the Union. The highest part of the main range of the Rocky Mountains runs north and south through the center of the State. The eastern half slopes to the Atlantic Ocean, and the western half to the Pacific. So that Colorado is on the highest ridge of the backbone of North America, on the very crest of this continent; actually on the top of the world, where she shines as the Kohinoor of all the gems of this Union.

There are some 56 mountain peaks over 14,000 feet high in the entire United States, and 46 of them are in Colorado. There is no region on this planet that equals in grandeur our superb scenery. President Roosevelt christened Colorado, "the Summer Playground of the Nation." It is indeed, "the Switzerland of America."

The entire central part of our State from Wyoming to New Mexico is a most sublime and gorgeous mountain park, 300 miles long and a hundred miles wide.

You will find good railroads and busses and automobile accommodations on fine highways to visit many thousands of our attractions. Many hundreds of thousands of tourists visit us every summer, and after they come once, they quit going to Europe or anywhere else for scenery.

Our rare and pure atmosphere, our almost perpetual sunshine, and healthful and invigorating climate is known and praised in every civilized country. One large hotel in the city of Gunnison, in my congressional district, has for many years advertised, "Free meals every day the sun don't shine," and "Free beds every night that ain't cool."

We want you to visit the Rocky Mountain National Park and go up to an elevation of over 12,000 feet where you can see the snow-capped peaks of the Rockies for 200 miles north and south and as far as the human eye can reach, east to the plains of Kansas and west to the Blue Mountains in Utah. Take a trip past Pikes Peak; through the Royal Gorge; through the world-renowned mining camp of Leadville.

Cross over the Continental Divide at Tennessee Pass and see the Pacific slope of our State. See the wonderful Mount of the Holy Cross, where on its mammoth side is placed by eternal snow that holy symbol. Go through the marvelous scenic canyons of the Eagle and Colorado Rivers. Stop and see my beautiful little mountain home city of Glenwood Springs, one of the gems of the Rockies, where there is a river flow of hot mineral water and the largest outdoor mineral-water swimming pool in the world. You ought if possible to visit Meeker, Craig, and Steamboat Springs. But you must go on down "where the silvery Colorado wends its way" to the city of Grand Junction, the metropolis of western Colorado, and visit the Colorado National Monument and the Grand Mesa; and then on to Delta, Montrose, Ouray, and over the "Chief Ouray Million-Dollar Highway" to Silverton, Durango, and the Mesa Verde National Park and see the home and the ruins of the ancient cliff dwellers, a race that were driven out or exterminated a thousand years before Columbus discovered America.

That will be a most weird and fascinating experience, and we think that million-dollar highway has no scenic equal on earth.

I assure you all that a most hearty reception and cordial welcome awaits you to a land of awe-inspiring grandeur and beauty and a trip the memory of which will be a joy to you forever.

Trusting and believing that your meeting in our beautiful capital city of Denver will be one of the most delightful and profitable gatherings you ever had, and on behalf of the Colorado federation and a million sons and daughters of our proud wonderland, I bid you—

Come out to the land of the sturdy pine
The crest of the Nation, where the sun doth shine,
Where the weak grow strong and all things grow great,
Come, visit our home, the Centennial State.

APPOINTMENT OF ADDITIONAL JUDGE FOR THE WESTERN DISTRICT OF MISSOURI

Mr. LOZIER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a letter from Hon. Merrill E. Otis, judge of the Western Federal district of Missouri, addressed to my colleague the gentleman from West Virginia [Mr. BACHMANN], a member of the House Committee on the Judiciary, in which communication Judge Otis analyzes the condition of the dockets in that district, shows that there is no congestion of cases, or delay in the administration of justice, or any necessity for the appointment of an additional judge in that district, in which opinion the other district judge, Hon. Albert L. Reeves, concurs.

Inasmuch as the House Judiciary Committee has favorably reported a bill to provide an additional judge for the eastern and western districts of Missouri, I think the Members of the House are entitled to the information contained in Judge Otis's letter, as he has therein stated in detail conditions in the district over which he and Judge Reeves preside. I am not informed as to conditions in the eastern district of Missouri, and I make no representations as to whether or not an additional judge is needed in that jurisdiction.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. LOZIER] asks unanimous consent to print a letter from Judge Merrill E. Otis with reference to the condition of the docket in his judicial district. Is there objection?

There was no objection.

The letter is as follows:

APRIL 24, 1930.

Hon. CARL G. BACHMANN,
*Member of Congress, Washington, D. C.*

DEAR CONGRESSMAN BACHMANN: The Kansas City Star for last evening, April 24, contained a Washington dispatch which I inclose herewith. It appears therefrom that there is pending in Congress a bill introduced by you providing for 18 additional Federal judges, including 1 for the eastern and western districts of Missouri. I do not know what stage this bill has reached. Some days ago I had a telegram from Congressman DYER, a member of the Judiciary Committee, inquiring concerning the necessity for an additional judge in the western district of Missouri, from which telegram I gathered the impression that the bill was still pending before that committee. Possibly, however, it has been already favorably reported and is now up for a final vote in the House. I am very interested in the measure.

I have no doubt at all that a proposal to increase Federal judges in the country as a whole is a most meritorious one, and that in many districts the necessity arises for additional judicial help. I am sure,

however, that you will welcome any accurate information concerning any one of the districts which are involved. Of these the western district of Missouri is one. Concerning the situation in this district, I can give you that accurate information. My conclusion, from facts within my knowledge, is that there is not the slightest necessity for additional judicial help in this district, and I am fairly confident that there is no necessity for any additional judge in Missouri.

The newspaper clipping which I inclose is to the effect that in your address you advised the House that there were pending in the western district of Missouri 1,199 cases at the end of the last fiscal year; that is, on July 1, 1929. That statement of the situation was of course literally correct. I assume it was based upon the report of the Attorney General, which shows on July 1, 1929, 1,199 cases pending in the western district of Missouri. That number included all cases—criminal cases, equity cases, and law cases.

The mere statement of the number of cases pending at a given time gives a most imperfect picture of the real situation. It is necessary to understand the nature of the cases before it is possible to have a clear perception of the truth. Let me, therefore, briefly describe the classes of cases making up the total of 1,199.

The Attorney General's report shows that these cases were made up as follows:

| | |
|---|---|
| 1. Internal-revenue cases | 73 |
| 2. Regulation of commerce cases | 14 |
| 3. Public health and safety cases | 55 |
| 4. Liability and insurance cases | 67 |
| 5. Not classified cases | 51 |
| 6. Private litigation cases | 631 |
| 7. Criminal cases | 308 |

The first of these classes—class 1, internal-revenue cases—being 73 in number, were almost altogether cases involving taxes. They were important cases involving amounts ranging from $1,000 to more than $100,000. Almost all cases of this character must be tried. The time consumed in the actual trial of any one of them, however, never exceeds more than one day. Additional time must be given by the judge to the consideration of the record since each of these cases usually is taken under advisement.

The second class of cases—class 2, regulation of commerce cases—being 14 in number, was almost altogether made up of actions brought against railroads for penalties, usually in very small amounts. Almost all cases of this character are disposed of without a trial. If one is tried, it requires never more than an hour to hear the evidence and to dispose of the case.

The third class of cases—class 3, public health and safety cases—being 55 in number, was made up almost entirely of liquor injunction cases. The whole 55 could be tried by one judge in two days.

The fourth class of cases—class 4, liability and insurance cases—being 67 in number, was made up almost entirely of war-risk insurance cases. There are real cases, most of which must be tried. The trial of the average war-risk insurance case consumes a little more than one day.

Of the sixth class of cases, class 6, private litigation cases, being 631 in number, the largest single group, more than one-half of the whole, consisted of suits for damages for personal injuries. Two-thirds of all cases falling within this whole class (that is, private-litigation cases) are settled without trials. Those which are tried require on an average of about one day each of the time of one judge.

The last class of cases, class 7, criminal cases, being 308 in number, was made up almost entirely of cases brought under the prohibition law. Such cases are handled rapidly. Ninety per cent of them are disposed of by pleas of guilty. Where they must be tried, from three to four easily can be presented to a jury in one day. In this district it may be said conservatively that all of the criminal cases which are tried are disposed of in a total of less than 60 days of one judge's time in a year.

This analysis should clearly show that the total of 1,199 cases pending on July 1, 1929, by no means indicates an amount of work which two judges could not very easily and adequately care for. There is this further important observation to be made in connection with the total of 1,199 referred to in the Attorney General's report. That total does not mean that there were 1,199 cases at issue on July 1, 1929. It means merely that that many cases had been filed by that time and not disposed of. The total includes cases in which the return day had not yet been reached, a very considerable proportion of the whole, and includes also cases in which preliminary motions were pending, also a very considerable proportion of the whole.

But the question is not what was the business of the district on July 1, 1929, but what is now the business of the district.

Four-fifths of all of the work of the western district of Missouri is in the western division of the district, in which is the city of Kansas City. (Almost all Federal court work arises in large cities.) There are four other divisions in the district, but in each of those divisions the work is always up to date. Moreover, in each of the other divisions of the district the amount of work is so little that it is almost always possible to dispose of that pending in a term of not less than one week.

I have not now at hand the exact figures as to the cases pending in the divisions outside of the western division. I shall get them at once and give you that information later. I have this morning ascertained the exact figures as to the cases pending in the western division at Kansas City. As I have said, four-fifths of the work of the district is at Kansas City.

This morning, April 24, 1930, there were pending in this division, including cases not yet returnable and cases not at issue, the following:

| | | |
|---|---|---|
| Law cases before Reeves | 215 | |
| Law cases before Otis | 110 | |
| Total | | 325 |
| Equity cases before Reeves | 85 | |
| Equity cases before Otis | 46 | |
| Total | | 131 |
| Criminal cases before Reeves | 126 | |
| Criminal cases before Otis | 79 | |
| Total | | 205 |
| Grand total | | 661 |

This grand total of 661 cases pending is made up of the various classes of cases in about the same proportions as the total of 1,199 pending in the whole district on July 1, 1929. Of the grand total of 661 cases, not more than 200 at the very outside are cases which will require real time on the part of the judges. A great majority of the grand total are cases each of which will be disposed of in three or four minutes. Such cases are criminal cases in which pleas of guilty will be entered, liquor injunction cases, scire facias cases, suits against railroads for penalties and private cases which are settled and in which only formal orders are made by the judges.

Not only is it easily possible for two judges to handle the work of this district as the foregoing summaries demonstrate, but the work of the district is handled easily by two judges, and that without delay in the disposition of either private or criminal business.

Every civil case which has been at issue in this district in the last two years has been set for trial at the return term, and every criminal case has been set for trial within three months after indictment has been returned. Not only have cases been set for trial in the return term, but the disposition of the cases has been insisted on by the judges. Agreements for continuance are not permitted. A case can be continued only upon written application and for good cause.

The judges in this district have not only had time to dispose of all of the business of the district, but each of them has had time to sit also on the United States Circuit Court of Appeals for this circuit and to aid judges in other districts when emergencies have arisen in those districts. For example, Judge Reeves has sat on the Circuit Court of Appeals on three separate occasions in the last year. I have sat on the Court of Appeals once during that same period.

It follows that there is not the slightest necessity for additional judicial help in the western district of Missouri. We have no more need of an additional judge here than a small boy has of three legs. If we had an additional judge, we have not a Kansas City court-room facilities for three judges. The fact is we have inadequate court-room facilities even for two judges.

Both Judge Reeves and myself are very much opposed to what we think would be the incurring of needless expense to the Government and to what, as we believe, would complicate the work of this district and greatly lessen the efficiency with which that work is now dispatched.

I assume that one of the reasons for the proposed increase in judges is that the situation growing out of the national prohibition act may be better taken care of. Whatever may be true elsewhere, that situation creates no necessity whatever in the western district of Missouri. In this district there has been a vigorous enforcement of the national prohibition act by the United States attorneys. The judges have cooperated with the United States attorneys by seeing to it that all such cases are speedily disposed of. No one has ever questioned the sufficiency of the penalties imposed in this district. On the other hand, there has been some complaint—I think not justified—that the penalties imposed by the judges have been somewhat heavier than they should have been.

I am sure that you will welcome this information. If anyone should know whether necessity for additional judicial help exists, it is the judge who is charged with responsibility for the work. Others who ought to know are the members of the bar and litigants having cases pending. I have never heard that a single member of the bar in this district or a single litigant has complained that there are not now enough judges to take care of the work of the district.

Very respectfully yours,

MERRILL E. OTIS,
*District Judge.*

ELIMINATION OF GRADE CROSSINGS IN THE DISTRICT OF COLUMBIA

Mr. McLEOD. Mr. Speaker, I ask unanimous consent to recommit to the Committee on the District of Columbia the bill (S. 4223), to amend an act entitled "An act to provide for the elimination of grade crossings of steam railroads in the

District of Columbia, and for other purposes," approved March 3, 1927, for further consideration.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. McLEOD] asks unanimous consent to recommit to the Committee on the District of Columbia a bill which the Clerk will report.

The Clerk read the title of the bill (S. 4223).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan [Mr. McLEOD]?

There was no objection.

BOND FOR MOTOR VEHICLES IN THE DISTRICT OF COLUMBIA

Mr. McLEOD. Mr. Speaker, I call up the bill (H. R. 4015) to provide for the revocation and suspension of operators' and chauffeurs' 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.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. McLEOD], by direction of the Committee on the District of Columbia, calls up the bill H. R. 4015, which the Clerk will report.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That this act shall in no respect be considered as a repeal of any of the provisions of the traffic acts for the District of Columbia, but shall be construed as supplemental thereto.

SEC. 2. The motor-vehicle operator's or chauffeur's license and all of the registration certificates of any person who shall by a final order or judgment have been convicted of or shall have forfeited any bond or collateral given for a violation of any of the following provisions of law, to wit—

Reckless driving, as provided in section 9 of the traffic acts of the District of Columbia;

Driving while under the influence of intoxicating liquor or narcotic drugs, as provided in section 10 of said traffic acts;

Leaving the scene of an automobile accident in which personal injury occurs without making identity known, as provided in section 10 of said traffic acts;

Such other violations as constitute cause for suspension or revocation of licenses in the District of Columbia; or

A conviction of an offense in any other State, which if committed in the District of Columbia would be a violation of any of the aforesaid provisions of the traffic acts of the District of Columbia;

shall be suspended by the director of traffic (hereinafter called the director) because of such conviction and shall remain so suspended and shall not at any time thereafter be renewed, nor shall any other motor vehicle be thereafter registered in his name until he shall give proof of his ability to respond thereafter in damages resulting from the ownership or operation of a motor vehicle and arising by reason of personal injury to or death of any one person of at least $5,000, and, subject to the aforesaid limit for each person injured or killed, of at least $10,000 for such injury to or the death of two or more persons in any one accident, and for damage to property of at least $1,000 resulting from any one accident. Such proof in said amounts shall be furnished for each motor vehicle owned or registered by such person. If any such person shall fail to furnish said proof his operator's license and registration certificates shall remain suspended and shall not at any time thereafter be renewed, nor shall any other motor vehicle be thereafter registered in his name until such time as said proof be given. If such person shall not be a resident of the District of Columbia the privilege of operating any motor vehicle in the District of Columbia and the privilege of operation within the District of Columbia of any motor vehicle owned by him shall be withdrawn until he shall have furnished such proof. A certified copy of the judgment order of conviction shall be prima facie evidence of such conviction.

SEC. 3. The operator's license and all of the registration certificates of any person, in the event of his failure to satisfy every judgment which shall have become final by expiration without appeal of the time within which appeal might have been perfected or by final affirmance on appeal, rendered against him by a court of competent jurisdiction in the District of Columbia or any State, or in a district court of the United States, for damages on account of personal injury, or damages to property in excess of $100, resulting from the ownership or operation of a motor vehicle by him, his agent, or any other person with the express or implied consent of the owner, shall be forthwith suspended by the director, upon receiving a certified copy of such final judgment or judgments from the court in which the same are rendered and shall remain so suspended and shall not be renewed, nor shall any other motor vehicle be thereafter registered in his name while any such judgment remains unstayed, unsatisfied, and subsisting, and until the said person gives proof of his ability to respond in damages, as required in section 4 of this act, for future accidents. It shall be the duty of the clerk of the court in which any such judgment is rendered to forward immediately to such director a certified copy of such judgment or a transcript thereof. In the event the defendant is a nonresident, it shall be the duty of the director to transmit to the commissioner of motor vehicles (or officer in charge of the issuance of operators' permits and registration certificates) of the State of which the defendant is a resident a certified copy of the said judgment. If after such proof has been given any other such judgment shall be recovered against such person for any accident occurring before such proof was furnished, such license and certificates shall again be and remain suspended while any such judgment remains unsatisfied and subsisting: *Provided, however*, That (1) when $5,000 has been credited upon any judgment or judgments rendered in excess of that amount for personal injury to or the death of one person as the result of any one accident; (2) when, subject to the limit of $5,000 for each person, the sum of $10,000 has been credited upon any judgments rendered in excess of that amount for personal injury to or the death of more than one person as the result of any one accident; or (3) when $1,000 has been credited upon any judgment or judgments rendered in excess of that amount for damage to property as the result of any one accident resulting from the ownership or operation of a motor vehicle by such judgment debtor, his agent, or any other person, with his express or implied consent, then and in such event such payment or payments shall be deemed a satisfaction of such judgment or judgments for the purposes of this section only.

Whenever any motor vehicle, after the passage of this act, shall be operated upon the streets and highways of the District of Columbia by any person other than the owner, with the consent of the owner, express or implied, the operator thereof shall, in case of accident, be deemed to be the agent of the owner of such motor vehicle.

If any such motor-vehicle owner or operator shall not be a resident of the District of Columbia, the privilege of operating any motor vehicle in the District of Columbia and the privilege of operation within the District of Columbia of any motor vehicle owned by him shall be withdrawn, while any final judgment procured against him for damages, including personal injury or death caused by the operation of any motor vehicle, in the District of Columbia or elsewhere, shall be unstayed, unsatisfied, and subsisting, and until he shall have given proof of his ability to respond in damages for future accidents as required in section 4 of this act.

The operation by a nonresident, or with his express or implied consent if an owner, of a motor vehicle on a street or highway of the District of Columbia shall be deemed equivalent to an appointment by such nonresident of the director of traffic or his successor in office to be his true and lawful attorney upon whom may be served all lawful processes in any action against him, growing out of any accident in which said nonresident may be involved while so operating or so permitting to be operated a motor vehicle on such a street or highway. Any such process shall specify the correct address of the defendant, and such service shall not be deemed perfected until the director shall have notified the defendant thereof, by registered mail, at such address; and such address shall be conclusively presumed to be correct if it be an address given by the defendant following any accident aforesaid in any proceedings before any court, magistrate, or justice of the peace, or to any police officer or deputy, or if it be the latest address appearing upon the records of the director of traffic or other officer charged with the administration of the motor-vehicle laws of the District of Columbia in which any motor vehicle is registered in the name of such defendant.

SEC. 4. Proof of ability to respond in damages when required by this act may be evidenced by the written certificate or certificates of any insurance carrier, duly authorized to do business within the District of Columbia, that it has issued to or for the benefit of the person named therein a motor-vehicle liability policy or policies as defined in this act which, at the date of said certificate or certificates, is in full force and effect, and designating therein by explicit description or by other appropriate reference all motor vehicles with respect to which coverage is granted by the policy certified to. The director shall not accept any certificate or certificates unless the same shall cover all motor vehicles registered in the name of the person furnishing such proof. Additional certificates as aforesaid shall be required as a condition precedent to the registration of any additional motor vehicle or motor vehicles in the name of such person required to furnish proof as aforesaid. Said certificate or certificates shall certify that the motor-vehicle liability policy or policies therein cited shall not be canceled except upon 10 days' prior written notice thereof to the director.

Such proof may be the bond of a surety company duly authorized to do business within the District of Columbia or a bond with at least two individual sureties, each owning unencumbered real state in the District of Columbia, approved by a judge of a court of record, which said bond shall be conditioned for the payment of the amounts specified in section 2 hereof and shall not be cancelable except after 10 days' written notice to the director. Such bond shall constitute a lien in

favor of the District of Columbia upon the real estate of any surety, which lien shall exist in favor of any holder of any final judgment on account of damage to property over $100 in amount or injury to any person or persons caused by the operation of such person's motor vehicle, upon the filing of notice to that effect by the director in the office of the clerk of the Supreme Court of the District of Columbia.

Such proof of ability to respond in damages may also be evidence presented to the director of a deposit by such person with the clerk of the Supreme Court of the District of Columbia of a sum of money or collateral, the amount of which money or collateral shall be $11,000. But the said clerk shall not accept a deposit of money or collateral where any judgment or judgments theretofore recovered against person as a result of damages arising from the operation of any motor vehicle shall not have been paid in full. The said clerk shall accept any such deposit and issue a receipt therefor.

The director shall be notified of the cancellation or expiration of any motor-vehicle liability policy of insurance certified under the provisions of this act at least 10 days before the effective date of such cancellation or expiration. In the absence of such notice of cancellation or expiration said policy of insurance shall remain in full force and effect. Additional evidence of ability to respond in damages shall be furnished the director at any time upon his demand.

SEC. 5. Such bond, money, or collateral shall be held by the said clerk to satisfy, in accordance with the provisions of this act, any execution issued against such person in any suit arising out of damage caused by the operation of any motor vehicle owned or operated by such person. Money or collateral so deposited shall not be subject to attachment or execution unless such attachment or execution shall arise out of a suit for damages, including injury to property, and personal injury or death, as a result of the operation of a motor vehicle. If a final judgment rendered against the principal on the surety or real-estate bond shall not be satisfied within 30 days after its rendition, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action in the name of the District of Columbia against the company or persons executing such bond.

SEC. 6. The director shall, upon request, furnish any insurer, person, or surety a certified abstract of the operating record of any person subject to the provisions of this act, which abstract shall fully designate the motor vehicles, if any, registered in the name of such person, and if there shall be no record of any conviction of such person of a violation of any provision of any statute relating to the operation of a motor vehicle or of any injury or damage caused by such person as herein provided the director shall so certify. The director shall collect for each such certificate the sum of $1.

SEC. 7. The director shall furnish any person who may have been injured in person or property by any motor vehicle, upon written request, with all information of record in his office pertaining to the evidence of the ability of any operator or owner of any motor vehicle to respond in damages.

SEC. 8. Any operator or any owner whose operator's license or certificate of registration shall have been suspended as herein provided, or whose policy of insurance or surety bond shall have been canceled or terminated, or who shall neglect to furnish additional evidence of ability to respond in damages upon request of the director shall immediately return to the director his operator's license, certificate of registration, and the number plates issued thereunder. If any person shall fail to return to the director the operator's license, certificate of registration, and the number plates issued thereunder as provided herein, the director shall forthwith direct any member of the Metropolitan police of the District of Columbia to secure possession thereof and to return the same to the office of the director. Any person failing to return on demand such operator's license or such certificate and number plates shall be guilty of a misdemeanor and shall be fined not more than $100, and such penalty shall be in addition to any penalty imposed for any violation of the provisions of the traffic acts as given in section 2 of this act. The amount of such fine shall be paid in the manner provided for the payment of fines for violations of the traffic acts.

SEC. 9. The director may cancel such bond or return such evidence of insurance, or the said clerk may, with the consent of the director, return such money or collateral to the person furnishing the same, provided three years shall have elapsed since the filing of such evidence or the making of such deposit, during which period such person shall not have violated any provision of the traffic acts referred to in section 2, and provided no suit or judgment for damages on account of personal injury or damage to property in excess of $100 resulting from the operation of motor vehicle by him or his agent, shall then be outstanding against such person. The director may direct the return of any money or collateral to the person who furnished the same upon the acceptance and substitution of other evidence of his ability to respond in damages or, at any time after three years from the expiration of any registration or license issued to such person, provided no written notice shall have been filed with the director stating that such suit has been brought against such person by reason of the ownership, maintenance, or operation of a motor vehicle and upon the filing by such person with the director of an affidavit that he has abandoned his residence in the District of Columbia or that he has made a bona fide sale of any and all motor vehicles owned by him and does not intend to own or operate any motor vehicle in the District of Columbia for a period of one or more years.

SEC. 10. Any person who by any other law of the District of Columbia is required to make provision for the payment of loss occasioned by injury to or death of persons or damage to property shall, to the extent of such provision so made and not otherwise, be exempt from this act.

SEC. 11. Any person who shall forge or, without authority, sign any evidence of ability to respond in damages as required by the director in the administration of this act shall be fined not less than $100 nor more than $1,000 or imprisoned not to exceed one year, or both.

SEC. 12. "Motor-vehicle liability policy," as used in this act, shall be taken to mean a policy of liability insurance issued by an insurance carrier authorized to transact business in the District of Columbia to the person therein named as insured, which policy shall designate, by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is intended to be granted by said policy, and shall insure the insured named therein and any other person using or responsible for the use of any such motor vehicle with the consent, express or implied, of such insured, against loss from the liability imposed upon such insured by law or upon such other person for injury to or death of any person, other than such person or persons as may be covered, as respects such injury or death by any workmen's compensation law, or damage to property, except property of others in charge of the insured or the insured's employees growing out of the maintenance, use, or operation of any such motor vehicle in the United States of America; or which policy shall, in the alternative, insure the person therein named as insured against loss from the liability imposed by law upon such insured for injury to or death of any person, other than such person or persons as may be covered as respects such injury or death by any workmen's compensation law, or damage to property, except property of others in charge of the insured or the insured's employees, growing out of the operation or use by such insured of any motor vehicle, except a motor vehicle registered in the name of such insured, and occurring while such insured is personally in control, as driver or occupant, of such motor vehicle within the United States of America, to the amount or limit of $5,000, exclusive of interest and costs, on account of injury to or death of any one person, and subject to the same limit as respects injury to or death of one person, of $10,000, exclusive of interest and costs, on account of any one accident resulting in injury to or death of more than one person; and of $1,000 for damage to property of others, as herein provided, resulting from any one accident; or a binder pending the issuance of any such policy, or an indorsement to an existing policy as hereinafter provided: *Provided*, That this section shall not be construed as preventing such insurance carrier from granting any lawful coverage in excess of or in addition to the coverage herein provided for, nor from embodying in such policy any agreements, provisions, or stipulations not contrary to the provisions of this act and not otherwise contrary to law.

No motor-vehicle liability policy shall be issued or delivered in the District of Columbia until a copy of the form of policy shall have been on file with the commissioner of insurance for at least 30 days, unless sooner approved in writing by the commissioner of insurance, nor if within said period of 30 days the commissioner of insurance shall have notified the carrier in writing that in his opinion, specifying the reasons therefor, the form of policy does not comply with the laws of the District of Columbia. The commissioner of insurance shall approve any form of policy which discloses the name, address, and business of the insured, the coverage afforded by such policy, the premium charged therefor, the policy period, the limit of liability, and the agreement that the insurance thereunder is provided in accordance with the coverage defined in this section and is subject to all the provisions of this act.

Such motor-vehicle liability policy shall be subject to the following provisions, which need not be contained therein:

(a) The liability of any company under a motor-vehicle liability policy shall become absolute whenever loss or damage covered by said policy occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or duty of the carrier to make payment on account of such loss or damage. No such policy shall be canceled or annulled as respects any loss or damage by any agreement between the carrier and the insured after the said insured has become responsible for such loss or damage, and any such cancellation or annulment shall be void. Upon the recovery of a final judgment against any person for any such loss or damage, if the judgment debtor was at the accrual of the cause of action insured against liability therefor under a motor-vehicle liability policy, the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment. But the policy may provide that the insured, or any other person covered by the policy, shall reimburse the company for payments made on account of any accident, claim, or suit involving a breach of the terms, provisions, or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits designated in this section, the insurance carrier may plead against such judgment creditor, with respect to the amount of such excess limits of liability, any defenses which it may

be entitled to plead against the insured. Any such policy may further provide for the prorating of the insurance thereunder with other applicable valid and collectible insurance.

(b) The policy, the written application therefor (if any), and any rider or indorsement which shall not conflict with the provisions of this act shall constitute the entire contract between the parties.

(c) The insurance carrier shall, upon the request of the insured, deliver to the insured for filing, or at the request of the insured shall file direct, with the director of traffic an appropriate certificate as set forth in section 4 hereof.

(d) Any carrier authorized to issue motor-vehicle liability policies as provided for in this act may, pending the issue of such a policy, execute an agreement, to be known as a binder; or may, in lieu of such a policy, issue an indorsement to an existing policy, each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this section shall apply to such binders and indorsements.

SEC. 13. The following words, as used in this act, shall have the following meanings:

(a) The singular shall include the plural. The masculine shall include the feminine and neuter, as requisite.

(b) "Person" shall include individuals, partnerships, corporations, receivers, referees, trustees, executors, and administrators; and shall also include the owner of any motor vehicle as requisite, but shall not include the District of Columbia.

(c) "Motor vehicle" shall include trailers, motor cycles, and tractors.

SEC. 14. The director shall make rules and regulations necessary for the administration of this act.

SEC. 15. Nothing herein shall be construed as preventing the plaintiff in any action at law from relying for security upon the other processes provided by law.

SEC. 16. On and after the effective date of this act the duties of the superintendent of licenses in the issuance of automobile-license plates and registration certificates shall be transferred to the director of traffic, who shall have hereafter in all respects all of the present duties of the said superintendent of licenses and all authority heretofore vested in him in respect thereto.

SEC. 17. If any part, subdivision, or section of this act shall be deemed unconstitutional, the validity of its remaining provisions shall not be affected thereby.

SEC. 18. This act shall go into effect 90 days after its passage and approval by the President of the United States.

With the following committee amendment:

Page 2, line 12, strike out lines 12 and 13.

The committee amendment was agreed to.

The Clerk read as follows:

Committee amendment: Page 2, line 15, strike out the word "said," and insert in lieu thereof the word "the."

The committee amendment was agreed to.

The Clerk read as follows:

Committee amendment: Line 18, after the word "acts," strike out the semicolon and add the words "of the District of Columbia."

The committee amendment was agreed to.

The Clerk read as follows:

Committee amendment: Page 3, line 25, after the word "proof," strike out all of the remainder of line 25, and on page 4, all of line 1 down to and including the word "conviction," and insert the following: ": *Provided*, That in case of both residents and nonresidents, however, that if it shall be duly established to the satisfaction of the director, and the director shall so find (a) that any such person so convicted, or who shall have pled guilty or forfeited bond or collateral, was, upon the occasion of the violation upon which such conviction, plea, or forfeiture was based, a chauffeur or motor-vehicle operator, however designated, in the employ of the owner of such motor vehicle; or a member of the same family and household of the owner of such motor vehicle, and (b) that there was not at the time of such violation, or subsequent thereto, up to the date of such finding, any motor vehicle registered in the District of Columbia in the name of such person convicted, entering a plea of guilty, or forfeiting bond or collateral, as aforesaid, then in such event, if the person in whose name such motor vehicle is registered shall give proof of ability to respond in damages in accordance with the provisions of this act (and the director shall accept such proof from such person) such chauffeur or other person, as aforesaid, shall thereupon be relieved of the necessity of giving such proof in his own behalf. It shall be the duty of the clerk of the court, or of the court where it has no clerk, in which any such judgment or order is rendered or other action taken to forward immediately to the director a certified copy or transcript thereof. A certified copy or transcript of the judgment, order, or record of other action of the court shall be prima facie evidence of such conviction therein stated."

The SPEAKER pro tempore. The Chair begs to suggest that the word "that" at the end of line 2, page 4, should be omitted, the word "that" already appearing at the beginning of line 2.

Without objection, the word "that" at the end of line 2, page 4, will be omitted.

There was no objection.

The committee amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 5, line 5, after the word "judgment," insert "arising from an accident, or accidents, happening subsequently to the effective date of this act and."

The committee amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 6, line 10, after the word "furnished," insert "and after the effective date of this act."

The committee amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 7, line 23, strike out all of lines 23, 24, and 25 on page 7, and all of lines 1 to 19, inclusive, on page 8, and insert:

"In all cases of persons who have been tried and convicted or plead guilty of violations of traffic laws of the District of Columbia, the operation by a nonresident or with his express or implied consent, if an owner of a motor vehicle, on any public street or highway of the District of Columbia, shall be deemed equivalent to an appointment by such nonresident of the director or his successor in office to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceedings against him growing out of any accident or collision in which said nonresident may be involved while so operating or so permitting to be operated a motor vehicle on any such street or highway, and said operation shall be a signification of his agreement that any such process against him, which is so served, shall be of the same legal force and validity as if served upon him personally. Service of such process shall be made by leaving a copy of the process with a fee of $2 in the hands of the director, or in his office, and such service shall be sufficient service upon the said nonresident: *Provided*, That notice of such service and a copy of the process are forthwith sent by registered mail by the plaintiff, or his attorney, to the defendant, and the defendant's return receipt appended to the writ and entered with the declaration. The court in which the action is pending may order such continuances as may be necessary to afford the defendant a reasonable opportunity to defend the action."

Mr. STAFFORD. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. STAFFORD. Will the gentleman first state from what State laws, if any, this legislation is copied?

Mr. STALKER. I will say to the gentleman that there are something like 14 States that have motor vehicle laws somewhat similar to this. We have tried to improve upon them and take the best out of those laws.

Mr. STAFFORD. I notice that in the second paragraph, on page 7, you recognize in this bill the principle of agent liability, a different rule being prescribed by this bill for the District than is in force in my own State, where that rule does not apply. May I inquire of the gentleman whether that is the existing law in the District? Whether a child, for instance, 16 years or over—or no matter what age—who is using his parent's vehicle for his own purposes, in going to school or going to work, will cause the liability, in case of injury, to be imposed upon the parent?

Mr. McLEOD. I will say to the gentleman that the provision to which the gentleman refers is to take care of individuals who hold policies that cover the entire membership of their families. In other words, if they are to be penalized, the particular individual would not be required to take out an additional policy.

Mr. STAFFORD. I direct the attention of the gentleman to the phraseology, because it goes much farther than that. It provides that in case a motor vehicle is owned by any person and is operated by another for his own individual purposes, the owner will be liable for the torts of the operator. Is that the existing law or do you intend to extend that provision to the District?

Mr. STALKER. In my State the owner of a car is liable for the torts of another.

Mr. STAFFORD. The States are divided as to whether they will hold the owner liable, or look only to the individual for

liability. In my State the law is well established, that a parent is not liable for the torts of his child, yet here you are making the owner liable for the torts of his children.

Mr. STALKER. That is correct, and that is the intent of the bill, that an owner is liable for his car.

Mr. McLEOD. Which is the law in many States.

Mr. STAFFORD. Is that the existing law in the District of Columbia?

Mr. McLEOD. It is not. Not to my knowledge.

Mr. GAMBRILL. That can hardly be the law, because the liability of the owner is based on the principle as to whether the driver of the car was acting as agent of the owner at the time of the accident. This is making law which is contrary to the general law.

Mr. STAFFORD. That is true; and I am taking the floor for the purpose of calling the attention of the House to that change in existing law.

Mr. STALKER. We considered that feature in the committee, and we believed the owner of the car should be liable for the car.

Mr. STAFFORD. That is very drastic. A parent provides the money for a car and he owns the car. He allows his son to use the car in going to business or to school, and, in doing so, he meets with a mishap. Under the law in many States, the parent is not liable for the resultant injury, but here you make a parent liable for the torts of his child.

Mr. CULKIN. In what States is not the parent liable?

Mr. STAFFORD. I know that in my own State, Wisconsin, the parent is not liable.

Mr. CULKIN. The parent gives his child a dangerous instrumentality, an automobile, and he consents that he use it. In the use of it he injures some innocent party, some pedestrian, and inflicts a serious physical injury upon him, probably a father or some wage earner. In all jurisdictions I know of under such circumstances it is the organic law of the State that the owner of the automobile is responsible for the negligence of the person to whom he has lent the car. The propriety of this principle was affirmed in the State of New York by Judge Cardoza.

Mr. STAFFORD. I do not dispute the fact that in certain States the parent is held for the torts of the child, but in Wisconsin I know positively that is not the law. Now, we are making the law for the District, and I am calling attention to the fact so that the House may vote intelligently upon the provision.

Mr. CULKIN. I thought the gentleman was urging a contrary course to the suggestion of the committee.

Mr. STAFFORD. I am only asking what the law is to-day in the District, and I am informed by the acting chairman of the committee that that is not the law and that you are changing it by this provision.

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 15, line 17, strike out the words "by an insurance carrier authorized to transact business in the District of Columbia to the person therein named as insured" and insert "to the person therein named as insured by an insurance carrier authorized to transact business in the District of Columbia, or in the case of a nonresident, by an insurance carrier authorized to transact business in any of the several States."

The committee amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 17, line 14, after the word "law," insert the following: "*Provided, however,* That separate concurrent policies covering, respectively, (a) personal injury or death, as aforesaid, and (b) property damage, as aforesaid, shall be considered a motor-vehicle liability policy within the meaning of this act."

The committee amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next committee amendment.

The Clerk read as follows:

Page 18, line 10, strike out the words "and is subject to all the provisions of this act" and insert "as respects personal injury and death or property damage, or both, and is otherwise subject to all the provisions of the act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. McLEOD, a motion to reconsider the vote by which the bill was passed was laid on the table.

DANGEROUS WEAPONS IN THE DISTRICT OF COLUMBIA

Mr. McLEOD. Mr. Speaker, I call up the bill (H. R. 9641) to control the possession, sale, transfer, and use of dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes.

The SPEAKER pro tempore. On behalf of the committee, the gentleman from Michigan calls up the bill H. R. 9641, which the Clerk will report.

The Clerk read the bill, as follows:

*Be it enacted, etc.*—

DEFINITIONS

SECTION 1. "Dangerous weapon," as used in this act, means any of the following instruments of the kind commonly known as a pistol, blackjack, slung shot, billy, sand club, metal knuckle, fountain-pen pistol, gas pistol, and machine gun. It also shall include any bowie knife, dirk knife, and pocketknife the blade of which is of greater length than 3½ inches.

"Person," as used in this act, includes any individual, firm, association, or corporation.

"Sell" and "purchase," and the various derivatives of such words, as used in this act, shall be construed to include letting on hire, giving, lending, borrowing, and otherwise transferring.

"Crime of violence," as used in this act, means any of the following crimes or an attempt to commit any of the same, namely: Murder, manslaughter, rape, assault with intent to kill, assault with a dangerous weapon, assault with intent to rape, assault with intent to rob, assault with intent to maim, robbery, grand larceny, burglary, and housebreaking.

COMMITTING CRIME WHEN ARMED

SEC. 2. If any person shall commit a crime of violence when armed with or having readily available any dangerous weapon, he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than five years; upon a second conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than 10 years; upon a third conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for a term of not more than 15 years; upon a fourth or subsequent conviction for a crime of violence so committed he may, in addition to the punishment provided for the crime, be punished by imprisonment for an additional period of not more than 30 years.

BEING ARMED PRIMA FACIE EVIDENCE OF INTENT

SEC. 3. In the trial of a person for committing a crime of violence the fact that he was armed with, or had readily available, a dangerous weapon, and had no license to carry the same, shall be prima facie evidence of his intention to commit such crime of violence.

PERSONS FORBIDDEN TO POSSESS CERTAIN DANGEROUS WEAPONS

SEC. 4. No person who has been convicted in the District of Columbia or elsewhere of a crime of violence shall own or have in his possession or under his control a dangerous weapon.

CARRYING DANGEROUS WEAPONS

SEC. 5. No person shall carry a dangerous weapon in any vehicle or concealed on or about his person, except while in his dwelling house or place of business or on other land possessed by him, without a license theretofore issued as hereinafter provided.

EXCEPTIONS

SEC. 6. The provisions of the preceding section shall not apply to marshals, sheriffs, prison or jail wardens or their deputies, policemen, or other duly appointed law enforcement officers, or to members of the Army, Navy, or Marine Corps of the United States, or of the National Guard or Organized Reserves when on duty, or to the regularly enrolled members of any organization duly authorized to purchase or receive such weapons from the United States, provided such members are at or are going to or from their places of assembly or target practice, or to officers or employees of the United States duly authorized to carry a concealed dangerous weapon, or to any person engaged in the business of manufacturing, repairing, or dealing in dangerous weapons, or the agent or representative of any such person having in his possession, using, or carrying a dangerous weapon in the usual or ordinary course of such business, or to any person while carrying a dangerous weapon unloaded and in a secure wrapper from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving goods from one place of abode or business to another.

ISSUE OF LICENSE TO CARRY

SEC. 7. The superintendent of police of the District of Columbia upon the application of any person having a bona fide residence or place of business within the District of Columbia or of any person

having a bona fide residence or place of business within the United States and a license to carry a dangerous weapon concealed upon his person issued by the lawful authorities of any State or subdivision of the United States, or if it appears that the applicant has good reason to fear injury to his person or property or has any other proper reason for carrying a dangerous weapon and that he is a suitable person to be so licensed may issue a license to such person to carry a dangerous weapon within the District of Columbia for not more than one year from date of issue. The license shall be in duplicate, in form to be prescribed by the Commissioners of the District of Columbia, and shall bear the name, address, description, photograph, and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, and the duplicate shall be retained by the superintendent of police of the District of Columbia and preserved in his office for ten years: *Provided*, That it shall be unlawful for any person to procure a license to carry a dangerous weapon unless he shall have previously entered into a recognizance in the sum of $500, with good and sufficient surety, to be approved by the superintendent of police, conditioned upon the lawful use of such dangerous weapon, which recognizance shall be payable to the superintendent of police, and may be sued on by any person who may be injured or damaged by any unlawful use of such dangerous weapon, such person to sue in the name of the superintendent of police, suing in such person's use: *Provided, however*, That nothing herein contained shall be construed to be a measure of damage that may be recovered through any proceeding other than on the bond hereinbefore referred to.

SELLING TO MINORS AND OTHERS

SEC. 8. No person shall sell any dangerous weapon to a person who he has reasonable cause to believe is not of sound mind, or is a drug addict, or is a person who has been convicted in the District of Columbia or elsewhere of a crime of violence, or is under the age of 21 years.

TRANSFERS REGULATED

SEC. 9. At the time of applying for the purchase of a dangerous weapon the purchaser shall sign, in triplicate, and deliver to the seller, a statement upon a form to be furnished to the superintendent of police, containing his full name, age, finger prints, address, occupation, color and race, place of birth, date and hour of application, the distinguishing identification features of the dangerous weapon to be purchased, and a statement that he has never been convicted in the District of Columbia, or elsewhere, of a crime of violence. The seller shall within six hours after such application sign and attach his address, and forward by registered mail two copies of such statement to the superintendent of police of the District of Columbia and shall retain the other copy for 10 years. That within 48 hours after the receipt by the superintendent of police of the statements herein contained he shall return one of the statements to the seller with the notation that the sale is approved or disapproved. That upon the receipt of the approval of the superintendent of police as herein provided, the seller may deliver the dangerous weapon to the purchaser, and when delivered it shall be securely wrapped, and if it be a firearm of any description it shall be unloaded: *Provided, however*, That nothing herein contained shall apply to sales to licensed dealers.

DEALERS' LICENSES, BY WHOM GRANTED, AND CONDITIONS THEREOF

SEC. 11. The Commissioners of the District of Columbia may grant licenses and may prescribe the form thereof, effective for not more than one year from date of issue, permitting the licensee to sell dangerous weapons within the District of Columbia subject to the following conditions in addition to those specified in section 9 hereof, for breach of any of which the license shall be subject to forfeiture and the licensee subject to punishment as provided in this act:

1. The business shall be carried on only in the building designated in the license, except transactions with the United States Government, or any branch thereof, the District of Columbia, and any other governmental organization whose purpose is for the preservation and the enforcement of law.

2. The license, or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

3. No dangerous weapon shall be sold (a) if the seller has reasonable cause to believe that the purchaser is not of sound mind or is a drug addict or has been convicted in the District of Columbia or elsewhere of a crime of violence or is under the age of 21 years, or (b) unless the purchaser is personally known to the seller or shall present clear evidence of his identity.

4. A true record in duplicate shall be made of every dangerous weapon sold, said record to be made in a book kept for the purpose, the form of which may be prescribed by the Commissioners of the District of Columbia, and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the distinguishing identification feature of the dangerous weapon, the name, address, occupation, race, age, height, place of birth, and residence of the purchaser, and a statement signed by the purchaser that he has never been convicted in the District of Columbia or elsewhere of a crime of violence. One copy of said record shall, within seven days, be forwarded by mail to the superintendent of police of the District of Columbia and the other copy retained by the seller for 10 years.

5. No dangerous weapon or imitation thereof, or placard advertising the sale thereof, shall be displayed in any part of said premises where it can readily be seen from the outside; except one sign, the dimensions of which shall not be greater than 3 feet by 1 foot, and bearing the inscription "dealer in firearms" or any other suitable inscription identifying the business with the sale of dangerous weapons, which said sign may be used for display purposes.

FALSE INFORMATION FORBIDDEN

SEC. 12. No person shall, in purchasing a dangerous weapon or in applying for a license to carry the same, give false information or offer false evidence of his identity.

ALTERATION OF IDENTIFYING MARKS PROHIBITED

SEC. 13. No person shall change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any dangerous weapon. Possession of any dangerous weapon upon which any such mark shall have been changed, altered, removed, or obliterated shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same: *Provided, however*, That nothing herein contained shall apply to any officer or agent of any of the departments of the United States or District government engaged in experimental work.

EXISTING LICENSES REVOKED

SEC. 14. All licenses heretofore issued within the District of Columbia permitting the carrying of dangerous weapons shall expire 30 days after the passage of this act.

EXCEPTIONS

SEC. 15. This act shall not apply to toy or antique pistols unsuitable for use as firearms.

PENALTIES

SEC. 16. Any violation of any provision of this act for which no penalty is specifically provided shall be punished by a fine of not more than $1,000 or imprisonment for not more than one year, or both.

CONSTITUTIONALITY

SEC. 17. If any part of this act is for any reason declared unconstitutional or void, such invalidity shall not affect the validity of the remaining portions of this act.

CERTAIN ACTS REPEALED

SEC. 18. The following sections of the Code of Law for the District of Columbia, 1924, namely, sections 855 and 857, and all other acts or parts of acts inconsistent herewith, are hereby repealed.

Mr. McLEOD. Mr. Speaker, I offer an amendment.

The SPEAKER pro tempore. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. McLEOD: Page 4, line 10, after the word "weapon," insert "or to agents, messengers, or guards of railroad companies and express companies while engaged in the usual or ordinary course of business of such companies."

Mr. STAFFORD. Mr. Speaker, will the gentleman yield?

Mr. McLEOD. Yes.

Mr. STAFFORD. I do not wish to direct my inquiry to the pending amendment, but I do wish to make some inquiries as to the bill in general. Will the gentleman kindly inform the House whether this bill was patterned after any legislation of other States?

Mr. McLEOD. No; this is a compilation of several of the laws of many States.

Mr. STAFFORD. Was the bill submitted by the Commissioners of the District of Columbia as their best judgment for legislation in the District?

Mr. McLEOD. I can not say whether it was a commissioners' bill or not. The gentleman from Maryland [Mr. ZIHLMAN] introduced the bill. The corporation counsel and the commissioners have recommended it.

Mr. STAFFORD. I notice in the very first section of the bill you include slungshot as a dangerous weapon. Most of us as boys at a certain age, I assume, if we were human at all, carried slungshots. Under the provisions of this bill you make it presumptive evidence that the carrying of a dangerous weapon, in this case let us assume a slungshot, is prima facie evidence of being guilty of a crime of violence.

Mr. McLEOD. Does the gentleman draw a distinction between what is called a slingshot and a slungshot? There is a distinction. A slingshot is possibly what the gentleman has in mind. A slungshot is a dangerous weapon.

Mr. STAFFORD. For my information and for the information of the House generally, and because I am not versed in the technology of the instruments used in crime, what is the difference between a slungshot and a slingshot?

Mr. HUDSON. I think a slungshot, technically, is a sort of weapon that slips up the sleeve and is more in the nature of a blackjack. The slingshot that the gentleman speaks of is different from a slungshot. It is a boy's toy that he hurls pebbles with, but a slungshot is a very dangerous weapon and is used like a blackjack.

Mr. STAFFORD. Something on the order of a discus that is thrown?

Mr. HUDSON. No; it does not leave the wrist. It is an instrument that is carried attached to the wrist.

Mr. FOSS. A slungshot is a steel ball on a piece of leather, with the leather attached to the wrist, and is about half as big as one's fist.

Mr. ARENTZ. Webster's Dictionary defines slungshot as follows:

A small mass of metal or stone fixed on a flexible handle, strap, or the like, and used as a weapon.

Mr. STAFFORD. I will at once confess that I confused the expression slungshot with slingshot, and I thank my colleagues, who are better acquainted with criminal weapons than I am, for calling my attention to the difference.

Mr. FOSS. Did the gentleman bring this up to establish his innocence?

Mr. STAFFORD. I will confess I am innocent in this particular case, but I do not deny on the floor or otherwhere that I have my foibles and that I am human.

I now wish to direct attention to the Baumes provision, virtually, in making the penalty very severe for repetition of carrying these dangerous weapons, leaving it to the judge to punish on the first offense by imprisonment not exceeding 5 years; for a second offense, 10 years; for a third offense, 15 years; and for a fourth offense, 30 years. That seems to be a pretty serious penalty.

Mr. McLEOD. It should be.

Mr. STAFFORD. In view of what Mr. George W. Wickersham stated recently in an address to some body of law teachers, that he does not believe that the imposition of heavy penalties is any deterrent to the commission of crime, I question the propriety of these extreme penalties. Thirty years for carrying around a concealed weapon by a civilian, when not licensed, but who might have ground for doing so, is going some in these days when we are seeking to levy excessive penalties for all sorts of misdemeanors.

Mr. TARVER. But the penalties provided are not provided for carrying a deadly weapon, but for the commission of crimes of violence while armed, and for subsequent offenses there are increased penalties which may be imposed in the discretion of the judge, but not necessarily, and the minimum might be imposed of one day instead of the maximum.

Mr. STAFFORD. While it is not the maximum, it is a congressional direction virtually as to the maximum to be imposed.

Mr. TARVER. What I call the attention of the gentleman to is the fact that these additional penalties are not imposed for the carrying of concealed weapons, but for the commission of crimes of violence while carrying such a weapon.

Mr. STAFFORD. I caught the gentleman's explanation when he first directed my attention to it. May I inquire why the committee did not repeal section 856 of the act?

Mr. McLEOD. The gentleman refers to the report more particularly than to the bill, does he not?

Mr. STAFFORD. Sections 855 and 857 are repealed. When I examined the bill some time ago I was at a loss to understand why they did not repeal also section 856.

Mr. McLEOD. The gentleman refers to the report?

Mr. STAFFORD. Yes.

Mr. McLEOD. That is a misprint.

Mr. HALL of Indiana. On page 10 of the bill, in section 18, sections 855 and 857 of the Code of Law of the District of Columbia, 1924, are specifically repealed. The report calls for the repeal of section 856. That must be a misprint in the printing of the report.

Mr. McLEOD. Yes; it is a misprint in the first printing of the report.

Mr. STAFFORD. What is the need at all for a display sign on the stores of the dealers in firearms?

Mr. McLEOD. In order to tell the public, to advertise to the world, who is permitted to sell firearms under the drastic regulation such as this is.

Mr. STAFFORD. I thought we were trying to suppress the sale of firearms.

Mr. McLEOD. This would not suppress it to those entitled to own such firearms.

Mr. COLE. Mr. Speaker, will the gentleman yield?

Mr. McLEOD. Yes.

Mr. COLE. I notice the bill specifies as a dangerous weapon a pocket knife the blade of which is of greater length than 3½ inches.

Mr. McLEOD. Many of the States have that description in their statute.

Mr. COLE. Would that apply to a hunting knife or a fishing knife?

Mr. McLEOD. To any knife with a blade more than 3½ inches long.

Mr. COLE. And I suppose there will be a large force of additional employees going around measuring the length of the blades of pocket knives in the pockets of the inhabitants of the District.

Mr. McLEOD. All I can say is that that is the law in many of the States.

Mr. FOSS. Mr. Speaker, will the gentleman yield?

Mr. McLEOD. Yes.

Mr. FOSS. Section 1 of the bill contains a description of dangerous weapons. Does the gentleman not think it would be well to include motor vehicles? One of the most dangerous weapons we have to-day is the motor vehicle.

Mr. STAFFORD. Airplanes are also dangerous.

Mr. FOSS. According to the decision of the court in Massachusetts a man has just been convicted for intentionally running over his mother-in-law with an automobile, and was given three years for assault with a dangerous weapon. [Laughter.]

Mr. STAFFORD. I would not have been surprised if that had occurred in New Jersey—I have heard of Jersey justice, but I have never heard of such a penalty being inflicted in Massachusetts.

Mr. FOSS. I would like to ask the gentleman if all existing licenses are revoked.

Mr. McLEOD. They would be revoked by this bill if found guilty.

Mr. FOSS. All existing licenses under section 14?

Mr. McLEOD. Yes; so they will have a record of all weapons.

Mr. FOSS. They have a record now.

Mr. STALKER. This is so that they will all be uniform.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider by Mr. McLEOD was laid on the table.

THE NEW MOTION PICTURE BILL, H. R. 9986

Mr. HUDSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on House bill 9986, and include therein an editorial from the Christian Sentinel.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. COLE. Reserving the right to object, what is the subject?

Mr. HUDSON. I am surprised that the gentleman does not know that House bill 9986 is one I introduced, the so-called movie bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. HUDSON. Mr. Speaker, I rise to address the membership of the House in response to numerous inquiries of my colleagues concerning the details of H. R. 9986, introduced by myself on February 17, 1930, and commonly known as the motion picture bill.

Mr. Speaker, this bill provides for a Federal motion-picture commission of nine members, appointed by the President without party designation or party responsibility. The bill declares the motion-picture industry to be a public utility and seeks to deliver the exhibitors of motion pictures from the arbitrary power and unfair trade practices of the motion-picture monopoly. It would destroy the system of so-called block booking and blind booking, two practices insisted on by the monopoly, which holds the independent exhibitor helpless in his choice of films.

The bill provides Government regulation, supervision, and inspection just as it does with other public utilities, such as banks, railroads, electric-power companies, radio, and the manufacture and sale of foods.

Instead of endeavoring to eliminate the objectionable parts of films by the so-called censorship board in cities and States, it provides for the supervision over the making of films at the source and during the process of production. It forbids any motion picture entering interstate or foreign commerce until it has been found to conform to the standards of production fixed by the commission and licensed by them. Special provision is made for scientific, educational, industrial, charitable, religious, and news films.

The moral standards considered in the bill, and which may be altered by the will of Congress, conform to the code or ethical standard produced by Mr. Will Hays on April 1, 1930.

In this connection, Mr. Speaker, I wish to read the editorial as published in the Christian Century, edited by Charles Clayton Morrison, under date of May 21, 1930, entitled "The Movies Before Congress."

THE MOVIES BEFORE CONGRESS

Here, in a nutshell, is the present situation in the movies. Attendance each week, 250,000,000; about 100,000,000 in this country, the rest abroad. Percentage of world market controlled by American movies, about 85 per cent. Children of school age exposed, practically every school child in America. Average exposure, two hours a week. Effect upon the children, according to testimony of teachers and psychologists, false and distorted views of life, mental development retarded, nervousness and excitability increased, sensitiveness to crime diminished, standards of modesty and social conduct demoralized. Effect of American movies upon international relations, lowered respect for America because of the pictures of American life, and resentment toward America because of misrepresentation of the life of other countries. Federal supervision of pictures exported, none. Feature pictures produced in America each year, about 800. Number of scenes eliminated by Chicago Board of Censors from the pictures viewed by them in 1929, nearly 7,000. Film territory in the United States under censorship control, about 20 per cent. General trend of pictures, according to the almost unanimous testimony of Christian Century correspondents, downward. Responsibility for this situation, upon four great corporations of producers who have established a virtual monopoly of the screen through block booking, blind booking, buying up strings of leading theaters, and employing a public relations office under Will Hays to stave off censorship, give the news the "right slant," and to keep the public mollified. Power of Mr. Hays to veto unfit films, none.

These facts were all presented with supporting data in the series of articles by Dr. Fred Eastman, published in the Christian Century during January and February and later reprinted in folder form to the extent of 70,000 copies to meet the insistent demands of our readers. Since then they have been discussed in every part of the country by parents, educators, civic societies, and churches.

In reply to this agitation, which was augmented by articles in the Churchman and other journals, the movie magnates issued through Mr. Hays's office a new "code of morals." The patent hypocrisy of that code was exposed in our issue of April 9, where similar codes issued by the same men in other days when they were under attack were cited. Attention was also directed to the ridiculous enforcement clause which declares that this latest code will "be enforced through the intelligent practicability derived from consultation."

Now the scene of battle shifts to Washington. To-day the movie magnates are marshaling their forces to defeat two bills which have been presented in Congress. These bills have been drafted in response to the demand of an outraged public that this industry be brought under some form of social control. Thus far it has shown a greater disposition to make money out of muck than to help us make good citizens out of our children. It proposes to fight off any interference with this practice. It is prepared to fight these bills to a finish, and its financial resources to carry on such a fight are practically unlimited. Over against this $2,000,000,000 industry will be arrayed such parents and teachers and good citizens generally as will take the time and trouble to write to their Congressmen to urge their support of the reform measures. To aid these citizens we give in the paragraphs below a brief analysis of the bills.

The first is the Brookhart bill (S. 1003), introduced May 7, 1929, by Senator BROOKHART, of Iowa, and still under consideration by the Senate Committee on Interstate Commerce. This bill is admirably short and clear. It seeks to make illegal block booking and blind booking and the control of local theaters by producers and distributors. It further seeks to release the local exhibitors from the domination of the producers in the matter of arbitration of disputes arising out of the lease of films. The measure thus aims at the monopoly which is largely responsible for many of the evils which now curse the entertainment screen.

The second is the Hudson bill (H. R. 9986), introduced into the House by GRANT M. HUDSON, of Michigan, on February 17, 1930, and referred to the House Committee on Interstate and Foreign Commerce. It is a much longer bill. It seeks to do all that the Brookhart bill attempts, but goes further in the following respects: It provides for the creation of a Federal motion-picture commission made up of nine commissioners, whose duty shall be "to protect the motion-picture industry from unfair trade practices and monopoly, to provide for the just settlement of trade complaints, to supervise the production of silent and talking motion pictures at the source, and to provide for proper distribution and exhibition thereof." It proposes to cooperate with producers at the source of production before the expense of filming is incurred, to see that scenarios of the pictures to be filmed conform to the ethical standards required by the commission. The commission will have full power to reject the scenario entirely or to suggest modifications before it is made into a picture. The bill proposes as the ethical standards to be followed those already announced by Mr. Hays, with the difference, of course, that in case the bill becomes law these standards will go into actual effect.

The Hudson bill provides further that every motion picture shall be required to have a license from the Federal commission certifying that it has been supervised at the source of production and found to conform to the standards of production fixed by the bill. The commission further would have power to supervise posters and advertising. In order to bring the pictures under this social control, the bill provides that the motion-picture industry be declared a public utility and subject to the same regulations that govern other public utilities. Finally, the bill contains adequate provisions for penalties and forfeitures for a producer who violates its regulations. It also provides that the expense of the commission shall be met by a small license fee to be charged against the industry.

Neither of these bills calls for censorship, although the picture industry has already begun to campaign against them by declaring them censorship bills. Both bills provide simply for social control. The Hudson bill goes much further in this direction than the Brookhart bill. No one knows which of the two will be reported out of committee first, but there seems a chance of the Hudson bill having a public hearing soon.

Can we legislate morality? Of course not. Neither can we legislate pure food. Yet we have pure food laws which bring under social control the type of food purveyor who sells adulterated food because he finds more profit in it than in the pure kind. Precisely the same argument holds for the Brookhart and Hudson bills. They bring under Federal supervision the producers who now foist upon our children and upon our foreign neighbors practically anything that they believe can be turned into money. Those producers have so tied up the local exhibitor in their money-grabbing system that he has no choice but to take the pictures they care to send him, good, bad, or indifferent. The producers will fight at Washington to continue this system. The socially minded elements of the country will fight to break it.

We urge every reader to write to his Senator asking his support of the Brookhart bill, S. 1003, and to his Representative urging his support of the Hudson bill, H. R. 9986. We also urge every church, woman's club, parent-teacher association, and civic organization to support actively this proposed legislation. This is obviously the next step in dealing with a social problem that is now almost out of control.

STATEMENT WITH REFERENCE TO THE ATTEMPT OF THE FEDERAL COUNCIL OF THE CHURCHES OF CHRIST IN AMERICA TO INTERFERE IN AFFAIRS OF THE STATE, AND THE CONTRIBUTIONS MADE TO THE FEDERAL COUNCIL BY JOHN D. ROCKEFELLER, JR.

Mr. TINKHAM. Mr. Speaker, I ask unanimous consent to print in the RECORD a statement I recently issued to the press.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TINKHAM. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following statement which I recently issued to the press in connection with my recent presentation to the Senate lobby investigating committee of evidence of the attempt of the Federal Council of the Churches of Christ in America to influence the Congress of the United States on both domestic and foreign policies, mostly by propaganda.

The Federal Council of the Churches of Christ in America in the May, 1930, edition of its official publication, The Federal Council Bulletin, in reply to a charge recently made before a committee of Congress that it has participated in political action by extensive propaganda and has violated the principle of the separation of church and state, answer that its policy is a "program of research and education directed to informing its own church constituency and to making the consciences of the people more sensitive to the ethical aspects of great public issues."

This statement is in direct contradiction to the evidence laid before the committee. There was submitted to the committee a publication of the council known as the Handbook of the Churches. On page 217 of this handbook under the title "Permanent Committee" there appears a heading "Washington committee," which the handbook goes on to explain.

"Serves as a center for the cooperative work of the churches in their relation to agencies of the Government. It is a clearing house of information concerning governmental activities which affect moral and social conditions and also is a medium for interpreting to the Government, from time to time, the point of view of the churches."

This committee by its own declaration is a revolutionary committee for participation by the organized church in temporal, secular, and political affairs, contrary to the American tradition of 150 years.

The constitution of the Federal council declares that the council is organized "to secure a larger combined influence for the Churches of Christ in all matters affecting the moral and social condition of the people so as to promote the application of the law of Christ in every relation of human life."

This provision of the constitution of the Federal council as at present interpreted by the Federal council is a violation of the principle of the separation of church and state.

In all three of these pronouncements, in the Federal Council Bulletin, in the Handbook of the Churches, and in the constitution of the Federal council, there is a clear challenge to the American people, and that challenge is whether in this age and generation this organization, through its council, shall be permitted to assume unlimited temporal power and to participate in affairs of state. This council arrogates to itself the right to interfere in every relation of human life, as declared in its constitution, and if this does not mean the extension of its activities into the realm of the state it is meaningless. Because an issue may be called moral does not give this council leave to inject itself into the political arena. Any political issue can be held arbitrarily to be a moral issue and many political issues have been so interpreted by the council to suit its own purposes.

It has been publicly stated that the constituent churches and their members have never been consulted in relation to the political actions undertaken by the committees of the council. Yet the council by implication conveys the idea that when it speaks on political issues, it speaks for the aggregate of the membership of its constituent churches which run into many millions. This on its face is deception.

It has been publicly stated also that the constituent churches, and their members have never instructed nor authorized the executive committee or any other committee to have the council act as a political propaganda machine or to assume political leadership.

Having set up the revolutionary doctrine that state and church shall no longer be separate, the one not to interfere with the other, this organization is lending what influence it possesses to have the United States join the League of Nations, a political and military alliance, and as a first step in this direction it is actively participating in the present movement to have the United States join the Permanent Court of International Justice of the League of Nations, the political subsidiary of the league.

It is well known that the international oil interests, international bankers, and large international business interests are profoundly interested in having the United States change its foreign policy for their own purposes.

Under these circumstances the following facts should be of much interest: That this council receives only about one-fourth of its income from its church constituency, the remaining being received from "other sources," on its face a highly dangerous financial policy for the organized church participating in politics to pursue. Recent revelations show that John D. Rockefeller, jr., contributed $35,650 in 1926; $32,717 in 1927; $36,250 in 1928; and $32,500 in 1929; about 10 per cent of the total annual income from all sources and about 35 to 45 per cent of the amounts received from contributors of $500 and over during those four years.

Regular annual contributions are received also from persons interested in international business organizations and directors of national banking interests with large foreign connections, as well as from international bankers themselves.

The foreign policy committee of this council during the last four years until recently had as its chairman Hon. George W. Wickersham, who has been active in inducing the organized church to participate in politics, and whose firm is representing a "large financial and banking institution in Japan," and "international or foreign interests, corporations, or associations, including international bankers," as recently publicly admitted by Mr. Wickersham.

Against the aggression of the church the state can protect itself through legislation, and, if need be, it can control the church; but the United States Government should never be compelled to take such action. The members of its church constituency themselves should reform the action of this council from within by insisting upon the preservation of the great American principle—the separation of the church and state, the one not to interfere with the other—which principle must be preserved if the higher interests of religion and the state are to be protected and advanced.

EXEMPTING FROM TAXATION CERTAIN PROPERTY OF THE NATIONAL SOCIETY, SONS OF THE AMERICAN REVOLUTION IN THE DISTRICT OF COLUMBIA

Mr. McLEOD. Mr. Speaker, I ask unanimous consent to take up the bill H. R. 3048.

The SPEAKER pro tempore. The gentleman from Michigan calls up the bill H. R. 3048, which the Clerk will report.

The Clerk read the bill, as follows:

H. R. 3048

To exempt from taxation certain property of the National Society, Sons of the American Revolution in Washington, D. C.

*Be it enacted, etc.*, That the property situated in square 196 in the city of Washington described as lot 10, together with all the furniture and furnishings now in and upon premises 1227 Sixteenth Street NW., occupied by the National Society of the Sons of the American Revolution, be, and the same is hereby, exempt from and after August 26, 1927, from all taxation so long as the same is so occupied and used, subject to the provisions of section 8 of the act approved March 3, 1877, providing for exemptions of church and school property, and acts amendatory thereof.

Mr. STAFFORD. Reserving the right to object, I note that the bill bears Calendar No. 672 on the Private Calendar. On Saturday last we got as far as Calendar No. 500. I do not question but that this bill will be reached in the regular order on call of that calendar.

The SPEAKER pro tempore (Mr. CHINDBLOM). The Chair will state that while the gentleman from Michigan asked unanimous consent to take up the bill, the Chair did not put the request in that manner. The gentleman is privileged on District day to call up a bill on the Private Calendar.

Mr. STAFFORD. I hope that the gentleman will not press it for the reason that it has not been the practice for a committee on the day it has to bring up legislation to bring up private bills. I would like to have the matter go over.

Mr. McLEOD. I called up the bill by agreement with several Members of the House.

The SPEAKER pro tempore. The Chair will call attention to this precedent in volume 4 of Hinds' Precedents, section 3310:

"On District of Columbia day a motion is in order to go into Committee of the Whole House to consider a private bill reported by the Committee on the District of Columbia." On January 28, 1907, a District of Columbia day, Mr. Joseph W. Babcock, of Wisconsin, asked unanimous consent to discharge the Committee of the Whole House from the consideration of the bill, S. 7208, for the relief of the Allis-Chalmers Co., of Milwaukee, Wis.

Mr. Martin B. Madden, of Illinois, having reserved the right to object, the Speaker said:

"The Chair will state that on Mondays, notwithstanding this bill (S. 7028) is on the private calendar, under the rule and practice, as the Chair is advised, the gentleman may call up the bill for consideration. He might move to go into Committee of the Whole House for the purpose of considering the bill; but now the gentleman asks unanimous consent that the Committee of the Whole House may be discharged from the consideration of the bill, and that the same be considered in the House as in Committee of the Whole."

Mr. STAFFORD. I remember the incident. It was in my first term. I remember it distinctly.

The SPEAKER pro tempore. That was in the second session of the Fifty-ninth Congress.

Mr. STAFFORD. I wish the gentleman from Michigan would withdraw the bill and not precipitate a controversy.

Mr. McLEOD. There are a number of Members here who wanted it called up.

Mr. TARVER. Mr. Speaker, will the gentleman yield?

Mr. McLEOD. I will.

Mr. TARVER. I did not understand whether or not the gentleman said he had an agreement that it should not be called up except by unanimous consent.

Mr. McLEOD. I did not have an agreement.

Mr. STAFFORD. I hope the gentleman will withdraw the bill. He may bring it up later in the afternoon.

Mr. McLEOD. It is a short bill, and it will take only about 10 minutes.

Mr. STAFFORD. I am opposed on principle to the exemption from taxation of these societies and similar societies.

Mr. McLEOD. This is similar to the Daughters of the Revolution.

Mr. TARVER. Is it not a fact that the sole reason given for favorably reporting this bill from the committee was that the Daughters of the American Revolution had received a similar exemption? It seems that this is a bill to exempt this particular organization, as against various other patriotic organizations not exempt, from the provisions of the tax laws. Those who were opposed to favorable consideration of this bill in committee were opposed because this was a proposition to exempt this society from the provisions of law from which other patriotic organizations are not exempted.

Mr. PATTERSON. Mr. Speaker, will the gentleman yield?

Mr. McLEOD. Yes.

Mr. PATTERSON. Are there not numerous patriotic organizations in the District of Columbia and elsewhere that are just as much entitled to this exemption as this particular society?

Mr. McLEOD. I do not know the number of organizations the gentleman refers to, but I do know that the Sons of the American Revolution have on two or three occasions petitioned for this, and no report was ever obtained for this committee.

Mr. PATTERSON. Can the gentleman give any evidence as to how many States in the Union have put into practice similar exemptions with reference to the same organization?

Mr. McLEOD. No.

Mrs. NORTON. It is a fact, though, that the principle has already been established in the District by exempting the Daughters of the American Revolution from taxation.

Mr. PATTERSON. I do not claim that that has not been done, but I think other organizations will be clamoring for the same exemption within a few weeks.

Mrs. NORTON. And they have a right to.

Mr. TARVER. Do I understand the gentleman from Michigan to say that the District Commissioners failed to make a report on this bill? They did make an adverse report, which was published in the daily RECORD a week ago, as I recall. I want to ask the gentleman this further question also: Has he obtained any information as to whether or not this property to be exempted is now being used for commercial purposes?

Mr. McLEOD. The committee has no knowledge that this property is being used for commercial purposes.

Mr. TARVER. It has no knowledge that it is not being used for commercial purposes?

Mr. McLEOD. That is provided in the act itself.

Mr. TARVER. Is the gentleman possessed of information as to the amount of taxes now being collected and as to the sum of money that would be taken out of the District treasury by the passage of this bill?

Mr. McLEOD. In reply to that question I will say that it is provided on page 1, line 9, that the property in question shall be "exempt from and after the date of the approval of this act by the President, from all taxation so long as the same is so occupied and used, subject to the provisions of section 8 of the act approved March 3, 1877, providing for exemptions of church and school property, and acts amendatory thereof."

So far as revenues are concerned I have no knowledge.

Mr. TARVER. The gentleman does not know what the property is worth?

Mr. STALKER. I will say to the gentleman that he could have obtained that information weeks ago.

Mr. TARVER. I asked that question when the bill was before the committee but nobody on the committee was able to give it to me.

Mr. STAFFORD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. STAFFORD. I believe if consideration is given to this bill it will have to be in the Committee of the Whole. Is that correct?

The SPEAKER pro tempore. That is correct.

Mr. STAFFORD. I have asked the gentleman to withdraw it for the time being so that other bills on the calendar can be considered.

Mr. McLEOD. If the gentleman wishes to block these bills, he can do so, and if the gentleman is going to insist, I will withdraw my request.

Mr. Speaker, I withdraw the request I made.

The SPEAKER pro tempore. The gentleman from Michigan withdraws his request for the consideration of the bill, H. R. 3048.

NATIONAL LINCOLN MUSEUM AND VETERANS' HEADQUARTERS

Mr. McLEOD. Mr. Speaker, I call up the bill (H. R. 10554) to establish a national Lincoln museum and veterans' headquarters in the building known as Ford's Theater.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. McLEOD] calls up the bill H. R. 10554, which the Clerk will report.

The Clerk read the title of the bill.

Mr. McLEOD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 10554) to establish a national Lincoln museum and veterans' headquarters in the building known as Ford's Theater.

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 consideration of the bill (H. R. 10554) to establish a national Lincoln museum and veterans' headquarters in the building known as Ford's Theater, with Mr. HOLADAY in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 10554, which the Clerk will report.

The Clerk read the title of the bill.

The CHAIRMAN. The gentleman from Michigan [Mr. McLEOD] is recognized.

Mr. McLEOD. Mr. Chairman, this bill is a bill to establish a national Lincoln museum in the building known as Ford's Theater. It was introduced and pressed by the District officials for the reason that the house known as the house where President Lincoln died is inadequate to house these relics, being several articles of value which are there at the present time, known as the Oldroyd collection. The house is not fireproof, It can not take care of the people who visit there daily in a safe fashion. It is also provided in the bill that the Ford's Theater, directly across the street, is better equipped, by making small improvements that have been suggested by this bill to take care of several articles of value that are to be added to the Oldroyd collection.

Mr. COLE. Will the gentleman yield?

Mr. McLEOD. I yield.

Mr. COLE. Will this Ford's Theater Building be purchased by the Government?

Mr. McLEOD. Ford's Theater is now owned by the Government.

Mr. COLE. What will be done with the old house that is now being used?

Mr. McLEOD. It is said that the old house is not proper or fit to house this collection of relics.

Mr. COLE. What disposition will be made of that?

Mr. McLEOD. I can not say.

Mr. COLE. That is owned by the Government also, is it not?

Mr. McLEOD. I do not know. I know that the Government owns the collection that is in the house. I do not know whether the Government owns the house or not.

Mr. STAFFORD. Mr. Chairman, I take the floor primarily to obtain information from members of the committee about this bill.

In years gone by we purchased from Mr. Oldroyd his collection of Lincolnia that he had housed in the building where the great President died, directly opposite from Ford's Theater. Ford's Theater, as we all know, is the property of the Government and is being used for warehouse purposes.

The bill under consideration seeks not only to transfer the Oldroyd collection now housed in the old residence, which Congress purchased, but also to provide housing facilities for the Military Order of the Loyal Legion, the Grand Army of the Republic, the Sons of Veterans, and such other societies as especially commemorate the Federal participation in the Civil War. There is appropriated by this bill $100,000 for the alteration of the Ford's Theater Building for those purposes. The question arises in my mind—and I direct the inquiry to some member of the committee—as to whether the committee has considered the propriety of having a portion of this appropriation borne by the District of Columbia or whether it is the intention and purpose to have the entire appropriation paid out of the Treasury of the United States?

Mr. McLEOD. It will be paid out of the Treasury of the United States.

Mr. STAFFORD. It was the intention of the committee to have the entire burden borne by the National Government?

Mr. McLEOD. Yes. It is a national affair. This is not a District affair in that sense. Everything pertaining to President Lincoln, I would say, is national more than District.

Mr. STAFFORD. I rather agree with the position of the acting chairman of the committee, that it is a national affair and not alone of local concern.

Mr. SNELL. Will the gentleman yield?

Mr. STAFFORD. I yield.

Mr. SNELL. How much of this is for the purchase of the collection?

Mr. McLEOD. That is owned by the Government.

Mr. SNELL. The entire collection?

Mr. McLEOD. The entire collection.

Mr. STAFFORD. Twenty-five years ago a studied effort was made on the part of Mr. Oldroyd to have the Government purchase this collection. I believe he succeeded sometime within the past 10 years in getting the Government to purchase his collection, and, also, purchase the building which he then owned. At present, the Government owns that building, and also the Ford's Theater. The gentleman from Michigan [Mr. McLEOD] now is proposing to alter the Ford's Theater Building to make it a suitable place for a museum to house these relics, and, also, to provide rooms for these various orders that are connected with the Civil War. May I inquire of the acting chairman of the committee, whether any plans have been drawn as to the remodeling of Ford's Theater, seeking to accomplish the end stated in the bill?

Mr. McLEOD. Only the opinion of Colonel Grant when he appeared before the committee urging a favorable report on this bill from the committee. Colonel Grant stated that about $100,000 would be needed to condition the building in such shape as would be necessary to make it appear as it did at the

time when the tragedy occurred, and also to provide the rooms which have just been mentioned.

Mr. STAFFORD. Then it is the idea to restore the interior of the building in the form of a theater, as nearly as may be?

Mr. McLEOD. No. The building itself is still in the form of a theater.

Mr. STAFFORD. That is, the exterior?

Mr. McLEOD. The interior. I understand it is still in the form of a theater, and this money would be used to renovate and improve it to the extent that would be necessary and also to lay out the rooms for these organizations.

Mr. STAFFORD. Has the committee given any consideration as to what disposition should be made of the Oldroyd home, where President Lincoln passed his last hours?

Mr. McLEOD. I do not know.

Mr. STAFFORD. I assume it will be the policy of the committee to retain that as a memorial.

Mr. BOWMAN. If the gentleman will yield, it is my understanding, according to Colonel Grant's testimony before the committee, that the rooms in the Oldroyd home will be placed in the same condition as they were at the time of Lincoln's death. They expect to remove all of the old relics from this home and place them in the old Ford's Theater, and then create an atmosphere in the Oldroyd home similar to the one that existed at the time of Lincoln's death.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. CHINDBLOM. I think many of us will recall that a bill similar to this was considered in a previous Congress. At that time a very forceful and successful fight was made against the bill on the ground that it was not considered a wholesome thing—but, on the contrary, a rather gruesome thing—to commemorate the building in which the martyred President met his sad death. At that time I think it was the purpose to restore Ford's Theater to its former condition and perpetuate the scene which existed at the time of the tragic death of the war President. I presume it is now intended to remodel this building entirely so as not to leave anything that suggests the conditions which existed at the time of the assassination of President Lincoln.

Mr. BOWMAN. That is true. The purpose is simply to make it a museum for the Lincoln collection.

Mr. STAFFORD. Those who are acquainted with the size of Ford's Theater and the character of the building in which these relics are now housed will not question the fact that the Ford's Theater Building is much more spacious and suitable for the housing of these relics than the present quarters.

Mr. SNELL. Will the gentleman yield?

Mr. STAFFORD. Yes.

Mr. SNELL. What provision is made for the maintenance of this building?

Mr. STAFFORD. The bill provides that the future care and maintenance of this building shall be at Government expense, under the Director of Public Buildings and Public Parks. At present the Ford's Theater Building is under the control of the Secretary of War and is being used for the storage of warehouse supplies. In a way, that is a desecration of the building in which this sad tragedy occurred. In view of the statement made by the gentleman from Illinois [Mr. CHINDBLOM] that it is intended to remodel the building for the purpose of housing these relics, and not to have it restored to its former condition, I see no great objection to the bill.

Mr. Chairman, I yield five minutes to the gentleman from Louisiana [Mr. O'CONNOR].

Mr. O'CONNOR of Louisiana. Mr. Chairman and gentlemen of the committee, I rise largely for the purpose of securing some information. Before the evening is over I would like the gentleman who is acting chairman of this committee to give publicly some reason why the policemen's and firemen's pay bill was not called up to-day?

I do not suppose I have any more interest in the wage earners and toilers than ninety-nine one-hundredths of the membership of this House, but I do have an interest in them. I was born and reared among wage earners, and I dare say that has given me the viewpoint I would like to express to-day. I dare say we are all children of toilers.

I have voted here for the remission of hundreds of millions of dollars of indebtedness due this country by Great Britain, France, Italy, and other countries, and so have Republicans who are apparently opposed to an increase in the pay of the firemen and policemen of the District of Columbia. I have voted for hundreds of millions of dollars for the Naval Establishment, and I am not sorry I have done so. So have the Republicans who are apparently against an increase in the salaries of the firemen and policemen of this city. I have voted for hundreds of millions of dollars for the United States Army and so, too, have the Republicans who are opposed to the enactment of this measure, promptly and expeditiously, and I am glad that I so voted. I have heard of refunds made to great corporations of this country, amounting to hundreds of millions of dollars, on account of taxes they paid during past years when they made enormous war profits and apparently that created no great flutter among those who flatter themselves that they are the watchdogs of the Treasury.

I have voted, I think, for a reduction of the surtaxes, when it meant millions and millions to the favored classes of our country, and so have the Republicans who are antagonistic to a measure that will do a small meed of justice to those who serve it more faithfully, more efficiently, and more courageously—by answering an alarm of fire at night and by guarding this city and its property—than many of the captains of industry in our land put together, who profiteered and patrioteered when millions of men in the same walks of life as the policemen and firemen were in the trenches and going across the sea to die in the trenches for the land in which they were born and reared.

I am interested in this bill because it means much to every police establishment and fire establishment in the United States of America, for they will watch the attitude of the National Government toward a matter to which the National Government, apparently, is antagonistic, though all the people of this District are clamoring for the passage of this bill, which will give relief to efficient, loyal, courageous, and brave servants of the people.

Why, my friends, I know that in the city in which I was born and reared none but brave men are firemen and policemen. Those who want to live forever do not join the police department or the fire department. Where I come from—and I imagine that is the case all over our Republic—they hazard their lives and they put at risk the families which are dependent upon them, for no policeman and no fireman can tell what a day may bring forth.

The CHAIRMAN. The time of the gentleman from Louisiana has expired.

Mr. STAFFORD. Mr. Chairman, I yield the gentleman five additional minutes.

Mr. O'CONNOR of Louisiana. And yet we have those who have the temerity, as they are few in number, to appear as the giants of this House and tell us as pygmies that we can not consider this bill because they may resort to parliamentary strategy and tactics which will fritter away the day and prevent us from accomplishing the purpose so much desired by the people of the District of Columbia, who are told in effect almost insolently and arrogantly, that they shall not spend their own money in their own way and as they please in recognition of the valorous service of these poor and humble but brave men.

A majority view apparently means nothing in this House. A few so-called imaginary Titans are able to issue a ukase and in the most tyrannical, aggressive, and impressive manner imaginable retard and defeat the will of the majority in a free institution such as this House is supposed to be, and among the Representatives of the people of the United States practically block an attempt to do justice to men who are far more entitled to this relatively insignificant sum than the beneficiaries whose snouts we have greased so often in the past.

Seventy-five million dollars was returned or refunded to one corporation under a tax return not more than two years ago. This, my friends, is equivalent to the increase in pay for the policemen and firemen for 100 years. Sometimes it takes an illustration of this character to bring home the picture as it ought to be seen by the Members of this House.

Oh, I do not want to indulge in any criticism of those who avail themselves of their parliamentary rights, but sometimes the extreme of right is the extreme of wrong, and those who resort even to the parliamentary methods that they are entitled to can, under the guise of being right, perpetrate as great a wrong and be as arbitrary and as oppressive as any tyrant that ever lived.

I hope for the dignity of this House and its reputation as a deliberative body the tyrannical grasp upon it and its deliberations of one or two men will be broken into smithereens. Let us announce that the majority view of this House will be expressed in no uncertain terms, notwithstanding the obstructive tactics of a few shadows who obscure and smoke-screen the real foes of this policemen and firemen bill for the passage of which Washington is clamoring.

Mrs. NORTON. Will the gentleman yield?

Mr. O'CONNOR of Louisiana. Yes.

Mrs. NORTON. I have been advised the bill the gentleman refers to will be brought up for consideration next Monday.

We are all very much interested in the bill, and the members of the committee are hopeful that the bill will be brought up then.

Mr. O'CONNOR of Louisiana. Does the chairman of the committee indorse the statement made by the gentlewoman from New Jersey with respect to this bill being called up next Monday?

Mr. McLEOD. To the best of my knowledge, it is the intention that the bill will be brought up some time very soon.

Mr. COLE rose.

Mr. O'CONNOR of Louisiana. I desire to thank the House for its attention. I now yield to the gentleman from Iowa.

Mr. COLE. Mr. Chairman, I make the point of order there is not a quorum present. We ought to have more people here to transact the important business of the District of Columbia.

Mr. McLEOD. Mr. Chairman, I move the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. HOLADAY, 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. 10554) to establish a national Lincoln museum and veterans' headquarters in the building known as Ford's Theater, had come to no resolution thereon.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. MAAS, indefinitely, on account of business.

ADJOURNMENT OVER

Mr. TILSON. Mr. Speaker, I ask unanimous consent that when the House adjourns on Thursday next, it adjourn to meet on the following Monday.

Mr. O'CONNOR of Louisiana. Mr. Speaker, reserving the right to object, can the leader on the Republican side give us any reasonable assurance that the Consent Calendar will be gone through with before we adjourn?

Mr. TILSON. In my judgment there will be ample opportunity to go through the Consent Calendar and it is my intention that it shall be called all the way through.

Mr. O'CONNOR of Louisiana. I am frank to say to the gentleman that it is a matter of selfishness that prompts me to ask the question. I have what I consider one of the most important bills on that calendar and I would like to have it considered.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

HOUSE RESOLUTION 226

Mr. PATMAN. Mr. Speaker, I ask unanimous consent to extend my remarks by placing in the RECORD a copy of a resolution which I introduced to-day.

The SPEAKER. The gentleman from Texas asks unanimous consent to extend his remarks by printing a resolution introduced by himself. Is there objection?

There was no objection.

Mr. PATMAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following resolution:

Resolution by Mr. PATMAN

Whereas it is charged that the representatives of cottonseed-oil mills have formed a conspiracy and have affiliated with international interests for the purpose of depressing and holding down the price of cottonseed oil; that said trust, in violation of the laws of the States and Nation, set the price the farmers should receive for their cottonseed during the fall of 1929; that said price was $75,000,000 less than the reasonable market price of said seed, thereby causing each cotton farmer to lose from $50 to $500 on his cottonseed; that the Attorney General of the United States was advised of this illegal conspiracy against the farmers which cost them $75,000,000 last fall and which is calculated to cost them a larger sum during the fall of 1930; that said Attorney General of the United States investigated said charges and found convincing evidence that said illegal organization, which is composed of representatives from practically every cottonseed-oil mill in the South, was violating the antitrust laws of the United States; that said Attorney General after making such discovery has failed and refused to commence any action of any kind or nature whatsoever against the guilty parties; and

Whereas it is charged that a few large concerns of the United States are endeavoring to get control of the food supply of the Nation and to set the prices that the producers may receive and the consumers must pay; that the Attorney General of the United States is cognizant of said desire on the part of these concerns to so monopolize the food supply and is making no effort to retard or impede their illegal operations; and

Whereas it is charged that the petroleum-oil companies of America and the large oil companies of the world have entered into agreements to set the prices that individuals and small independent companies may receive and the consumers must pay for gasoline and other petroleum-oil products in the United States; that said agreements are in writing, the names of the companies entering into them are known, and the agreements are in plain violation of the laws of the United States; that the Attorney General, notwithstanding this convincing evidence which has been called to his attention, has failed and refused to take any action having for its purpose the destruction of this combination and the punishment of these conspirators against the public interest;

Whereas it is charged that the Attorney General of the United States refused to advise a Member of Congress as to whether or not agreements entered into by a trade association were in violation of the law, with the excuse that the "Acts of Congress provide that the Attorney General shall give opinions only to the President and the heads of executive departments and independent Government bureaus"; that said Attorney General at the time he refused to advise a Member of Congress was freely advising with representatives of illegal combinations and trusts who were endeavoring to get concessions from the Government of the United States through his department that would permit said illegal combinations to set the prices of necessaries and conveniences of life; that the Attorney General has freely advised with representatives of illegal combinations who desired recognition of certain loopholes in the antitrust laws of the United States from his department; that said policy so pursued by the Attorney General of the United States is detrimental and destructive of the rights of the public and is using his office as an agency of convenience for private and unfair trusts and greedy monopolies.

Whereas it is charged that the Attorney General of the United States has had called to his attention the fact that 50 or more trade practice conferences have been held by the Federal Trade Commission for representatives of so many different industries, and that at said conferences resolutions were passed which were in direct and positive violation of the laws of the United States; that so far as is known said resolutions are now effective as between the members of each industry and are being complied with, and that the Attorney General of the United States has already failed and refused to do his duty by prosecuting the offending parties; and

Whereas it is charged that the Department of Justice of the United States never brings any kind of suits against illegal and unlawful combinations in restraint of trade, price-fixing organizations, and monopolistic organizations except what are known as friendly suits; that said department so handles said suits that in the event the offending parties lose and the Government wins no one will be compelled to pay a fine or go to jail; that there is no effort on the part of the Department of Justice to enforce the antitrust laws of the Nation, but a tendency by said department to permit their violation with the implied, if not expressed, understanding that suits will not be instituted or prosecutions commenced that will require the payment of fines or the serving of jail or penitentiary sentences; and

Whereas it is charged that the Attorney General has received convincing evidence that trade associations operating under their assumed cloak of legality thrown about them by the Federal Trade Commission have been and are now violating the antitrust law of the United States, and he has failed and refused to take any legal action whatsoever against the guilty individuals and concerns; and

Whereas it is charged that the Department of Justice, through statements issued through the press and otherwise, has let it be known that no "trust busting" campaign is going to be initiated by that department; that said statement under the circumstances and couched in said language is sufficient to advise violators of the antitrust laws that they will be dealt with sympathetically and gently by said department, if at all.

Whereas the courts of the Nation have construed the antitrust act of the United States in more cases and from more different angles than any other law that is now upon our statute books; that more words have been written by the judges of our Federal courts in construing the antitrust act than are contained in the greatest of all books, the Holy Bible. Yet, the Attorney General of the United States claims he does no know how the courts will construe said act, that antitrust laws are still indefinite, vague, and more friendly suits are necessary; friendly suits are delayed in the courts while illegal combinations continue to defraud the public.

Whereas it is charged that trusts and monopolies are now being formed for the purpose of controlling the prices of all the commodities necessary for the comfort and convenience of life and said Attorney General of the United States is not taking an effective stand against their organization, but on the other hand, by reason of his inaction, acquiescence, public statements, and in other ways, said monopolies and trusts are encouraged.

Whereas private monopolies and trusts are indefensible; if effective action is not taken by the Congress of the United States, producers and consumers will continue to be robbed, independent business will be ruined, personal initiative crushed, and the hopes and aspirations of the young destroyed: Therefore be it

*Resolved*, That there is hereby established a select committee to be composed of five Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, for the purpose of investigating said charges.

(a) Such committee shall report its findings to the Congress not later than February 1, 1931, including such recommendations as it may deem advisable. Upon the filing of such report the committee shall cease to exist.

(b) For the purposes of this resolution the committee is authorized to select a chairman; to hold such hearings within the District of Columbia and elsewhere in the United States during the sessions and recesses of the Congress; to employ such clerical, stenographic, and other assistants; to require the attendance of such witnesses and the production of such books, papers, and documents; to administer such oaths; to take such testimony; and to have such printing and binding done and to make such expenditures (including expenditures for travel and subsistence) as it may deem necessary.

(c) The expenses of the committee shall be paid from the contingent fund of the House of Representatives, upon vouchers to be approved by the chairman of the committee.

MUSCLE SHOALS

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to extend my own remarks and to include in connection therewith my own views filed in connection with the report of the Committee on Military Affairs on Muscle Shoals, and also a bill introduced by myself on that subject, being the bill H. R. 12097.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. McSWAIN. Mr. Speaker, not expecting to participate in the general debate authorized by the rule providing for the consideration of the Muscle Shoals question, I am extending my remarks under permission granted by the House by printing my views of the bill, which was reported by the Committee on Military Affairs, and in connection with said views I am also printing H. R. 12097, a bill introduced by myself on May 2, 1930, to authorize the leasing of said Muscle Shoals property.

VIEWS OF REPRESENTATIVE McSWAIN

I regret my inability to give my unqualified approval at this time to the bill which has been reported by the committee, being substantially the same bill which was formulated by the subcommittee of five of which I was a member. The other members of the subcommittee understand fully my attitude. Our difference is fundamental and relates to what should be the controlling principles underlying such a bill. These differences may be summarized generally as follows:

1. As to permitting the property to be subdivided and leased to two or more different lessees. In my opinion, the property is a unit and should be let to only one person, firm, or corporation.

2. As to the temporary nature of the board, which is not confirmed by the Senate. In my judgment, the board should be a continuing body and be confirmed by the Senate, and even if the property should be leased, should exist for the purpose of supervising the performance of the lease, thus insuring that the interests of the public, and especially of agriculture, are protected and that the provisions of the lease are carried out by the lessee.

3. As to the absence of sufficient definiteness and certainty in the specifications and limitations governing the formulation of a lease and the performance of the provisions of the lease. The requirements as to the fixation of nitrogen and as to the processing of such fixed nitrogen into the form of fertilizer, such as can be directly applied to the soil and to crops, should not only be definite as to the amount to be prepared during the first period, which in the bill is three and one-half years, but the law should specify exactly the increases to be made in production and the successive periods of time in which such exact increases must be made, provided the market demand justifies, and for this reason, among many other reasons, the continuing presence of an official body such as the board is necessary.

4. The absence of an alternative provision of the same general nature as that which passed the Senate. It should be provided that unless a satisfactory lease with a responsible person, firm, or corporation should be made within one year after the act becomes law, then the same board which has been trying to negotiate a lease, should proceed to put the plant to work in the fixation of nitrogen and in altering and adding to the plant so as to process such fixed nitrogen for use as a fertilizer. The bill should also provide that if the board should at any time after commencing the operation of the plant have an offer to lease the same, then it should consider such offer, and if the board should be able to agree upon a lease and should execute it, then the possession and control of the property should pass as a going concern to the lessee, with the minimum of interruption to the business.

REASONS FOR MY DISSENT

I do not believe that the property can be advantageously and wisely—having in view its purpose for national defense and for agriculture—leased to more than one person, firm, or corporation. The plant was built as a unit; its arrangement, its service systems, such as water and sewerage, railroad tracks, and lighting wires, all contemplate one management, and to divide the same up into two or more parts will lead to confusion, collision, and consequent failure for at least some of the lessees. It is too much to expect of human nature that there should be cooperation and joint action among two or more lessees upon the same ground, dealing with the same property, and, especially, receiving power from the same source. Since inequality of control and management would lead to deadlocking, and since predominance of control in one, would lead to despotism and oppression, it is too much to expect thoughtful business men to invest the necessary millions of capital under conditions so unpromising. One or more of the lessees will get the advantage over the others, and thus at least a part of the properties will be surrendered to the Government, and such part will almost certainly be nitrate plants No. 1 and No. 2. When these plants are no longer operated, then the power necessary for their operation is released to the other lessee, or to the board of control, or to the holding corporation which is dominated by such other lessee, and thus the project is one-sided and incomplete.

THE BOARD SHOULD BE PERMANENT

Only by means of a permanent board, appointed by the President, but confirmed by the Senate, can the public interest be constantly watched after and protected. If the property be leased, then the maximum number of days per year for which the board can collect a per diem may be easily limited so as to not be burdensome. By having a continuing body we are assured of three persons kept constantly familiar with all the problems connected with the Muscle Shoals project, whether under lease or under Government operation, and this board will be in a position to say and decide whether or not the law is being observed and the provisions of the contracts of letting lived up to by the lessee. There is need for the board as the representative of the public and especially of agriculture in connection with the cheapest possible production of nitrogenous plant food. The greatest problem in agriculture to-day is, aside from the marketing problem, that of artificial fertilizers at reasonable prices. In order to accomplish this end it is necessary to free the farmer from the strangle hold of Chilean monopoly over nitrate of soda. Likewise, it is necessary to demonstrate to the farmer and to the world the cost of producing synthetic nitrogen adapted as a plant food. Chilean nitrates, controlled by a natural monopoly, whose existence is guaranteed by the Chilean Government, which controls the production and marketing of sodium nitrate and imposes an export duty upon the same is the standard by which the manufacturers of synthetic nitrogen throughout the world gage and fix their prices. It is admitted that there is a worldwide trust or agreement called a cartel, amounting to a monopoly in the production and sale of nitrogen products.

During the last 50 years the farmers of America have paid to the Chilean Government in the form of export duty about $265,000,000. In addition they paid for the charges of transport from the west coast of South America to the east coast of North America about $280,000,000. Thus they have paid as charges, which should now be absolutely unnecessary, more than $500,000,000 for what represents no value whatever, but is tribute paid to a natural monopoly located several thousand miles from our farms and fields. Since science has discovered that over every acre of land there are many tons of nitrogen which by scientific process may be converted into plant food just as good and effective as the natural Chilean nitrate of soda, we should do everything in our power to shake off the grip of Chilean monopoly and to overthrow the power of the world trust. Strange as it might seem, there are some people who are glad for the Government to help industry by protective tariffs, and to help banks by governmental machinery, and to help railroads by guaranteeing returns upon investment, and to do this the Government itself prevents cutthroat competition, and to spend hundreds of millions, aggregating throughout our history billions of dollars, in improving rivers and harbors as agencies of commerce, in order to make commerce more profitable for certain cities and certain classes of individuals. In many other ways that I might mention the power of law exerted by the Federal Government has been employed to help certain kinds of business. But stranger still, some of these very people that take governmental aid as above indicated to be a matter of course, in fact, a practice so long standing that they regard it as a right on their part to demand such Government aid and a duty on the part of the Government to give such aid, yet these very people are so afraid that the Government will do something for the American farmer that they seem utterly indifferent to what the Chilean Government has done and is doing to the American farmer.

INSUFFICIENT SPECIFICATIONS AND LIMITATIONS IN THE BILL

From the beginning of the Muscle Shoals project in 1916, when by the terms of the law the property was dedicated to national defense in time of war and to the production of nitrates or other products useful in the manufacture of fertilizers, there have been certain fundamental and prevailing principles governing the action of the committee of the Congress and controlling the public opinion of the country. The first formal expression of these ideas bears date of April 24, 1922, and is as follows:

MUSCLE SHOALS

COMMITTEE ON MILITARY AFFAIRS,
HOUSE OF REPRESENTATIVES,
*April 24, 1922.*

It is the judgment of this subcommittee that any proposition for the purchase, lease, or use of the Muscle Shoals property of the Government of the United States shall be based upon the following as fundamentals and essentials:

1. That the property shall at all times be subject to the absolute right and control of the Government for the production of nitrates or other ammunition components of munitions of war, and that nitrate plant No. 2 must be kept available therefor by the purchasers, lessees, or users of the property.

2. That the purchasers, lessees, or users of the property shall be obligated in the strictest terms to the manufacture and sale to the public of fertilizers in time of peace.

3. That any proposal for the purchase, lease, or use of the Muscle Shoals property of the United States Government must be for the entire property except the so-called Gorgas plant and the transmission line therefrom.

FRANK L. GREENE.
JOHN F. MILLER.
RICHARD WAYNE PARKER
(So far as it goes).
PERCY E. QUIN.
WILLIAM C. WRIGHT.

The next expression of these principles is found in the majority report of the commission appointed by President Coolidge on March 26, 1925. The concluding statement of the majority of that commission is as follows:

"CONCLUDING STATEMENT

"It is the mature judgment of the undersigned members of the inquiry that the Muscle Shoals property is primarily a part of our national defense and we are convinced that this view is generally shared by the people of the United States. It is obvious that when these plants are needed for the production of munitions in time of war they will be needed quickly. The Government should, therefore, hold the title to the plants and prevent their being so changed as to make impracticable their immediate conversion for the manufacture of munitions, and arrangements should be made that will assure the maintenance of a trained operating force. These needs can best be served, in our judgment, by operating the plants. Fortunately, the plants are of such a character that they can render an important peace-time service to agriculture, and this vast expenditure of the Government need not remain idle or unproductive.

"We therefore unhesitatingly recommend legislation be enacted by Congress to lease this property on such terms as have been herein enumerated, and in event of failure to obtain a lease the President should have authority to cause these plants to be immediately operated as a Government enterprise.

"It is with great reluctance that we turn toward Government operation, being well advised of all of the infirmities inherent in such an undertaking. The great investment of the Government at Muscle Shoals, however, the importance of its continued maintenance as a part of our national defense, the crying need of agriculture for more and cheaper fertilizer, and the favorable opportunity for meeting that need, all compel us to disregard our prejudices, for we are convinced that to longer permit this great investment to stand idle when it can be of such great service to our people would be little less than a public calamity.

"Delay in this case is expensive. Legislative action is imperative.

"Dated this 14th day of November, 1925.

"JOHN C. MCKENZIE.
"NATHANIEL B. DIAL.
"R. F. BOWER."

The next expression of these same ideas is found in the House Concurrent Resolution No. 4, adopted by the Sixty-ninth Congress, first session, 1926, and is as follows:

"*Resolved by the House of Representatives (the Senate concurring)*, That a joint committee, to be known as the Joint Committee on Muscle Shoals, is hereby established, to be composed of three members to be appointed by the President of the Senate from the Committee on Agriculture and Forestry and three members to be appointed by the Speaker of the House of Representatives from the Committee on Military Affairs."

"The committee is authorized and directed to conduct negotiations for a lease or leases (but no lease or leases shall be recommended which do not guarantee and safeguard the production of nitrates and other fertilizer ingredients mixed or unmixed primarily as hereinafter provided) of the nitrate and power properties of the United States at Muscle Shoals, Ala., including the quarry properties at Waco, Ala., for the production of nitrates primarily and incidentally for power purposes, such power to be equitably distributed between the communities and States to which it may be properly transported, in order to serve national defense, agriculture, and industrial purposes, and upon terms which so far as possible shall provide benefits to the Government and to agriculture equal to or greater than those set forth in H. R. 518, Sixty-eighth Congress, first session, except that the lease or leases shall be for a period not to exceed 50 years.

"Said committee shall have leave to report its findings and recommendations, together with a bill or joint resolution for the purpose of carrying them into effect, which bill or joint resolution shall, in the House, have the status that is provided for measures enumerated in clause 56 of Rule XI: *Provided*, That the committee shall report to Congress not later than April 26, 1926: *And provided further*, That the committee in making its report shall file for the information of the Senate and the House of Representatives, a true copy of all proposals submitted to it in the conduct of such negotiations."

The next expression of this same principle is found in the report of this committee to the Sixty-ninth Congress, second session, and dated March 3, 1927, and is as follows:

"The Committee on Military Affairs, to which was referred sundry bills relating to Muscle Shoals, Ala., submit to the House a report containing the report of the subcommittee, which report was adopted by the full committee on March 3, 1927.

"*The chairman and members of the Military Affairs Committee of the House:*

"Your subcommittee appointed February 2, 1927, to consider H. R. 16396 and H. R. 16614, known, respectively, as the Reese bill and the Madden bill, both having reference to the disposition of Muscle Shoals, organized and proceeded to the discharge of its duties immediately after being appointed.

"In considering the subject your subcommittee felt that the principal purpose of the Congress regarding Muscle Shoals is to safeguard the national defense, promote fertilizer production of substantial benefit to agriculture, and to secure the most beneficial public use of the power-generating facilities after the national defense and fertilizer manufacture purposes have been fully served. This purpose has been stressed in reports made on the subject by various committees of Congress, the joint commission, and the President of the United States.

"Having in mind this fundamental purpose in its consideration of the two offers, your subcommittee also felt bound by the following limitations placed upon it by the full committee:

"'1. That the property shall at all times be subject to the absolute right and control of the Government for the production of nitrates or other ammunition components of munitions of war and that nitrate plant No. 2 must be kept available therefor by the purchasers, lessees, or users of the property.

"'2. That the purchasers, lessees, or users of the property shall be obligated in the strictest terms to the manufacture and sale to the public of fertilizers in time of peace.

"'3. That any proposal for the purchase, lease, or use of the Muscle Shoals property of the United States Government must be for the entire property except the so-called Gorgas plan and the transmission line therefrom.

"'4. In the consideration of any offers for Muscle Shoals that it be a prerequisite that such offer contain a stipulation that the lessee, operating agency, or owner, as the case may be, be required to return to, or account for to, the Government, either in cash or by way of reduction in the price of the fertilizer manufactured, the profits from the sale of power which would have been used in the manufacture of fertilizer in case there had been no discontinuance in the manufacture thereof; that the manufacture of fertilizer may be discontinued only when there shall be such excess accumulation of fertilizer stocks as shall be in excess of the reasonable or prospective demands for such fertilizer, and such manufacture shall be resumed upon reduction to a reasonable degree of such accumulated stock of fertilizer.

"'5. That any bid must contain a provision for the forfeiture of the power rights and fertilizer provisions if there is any failure to produce nitrates in the amount of at least 40,000 tons per year, provided that such forfeiture as may not be due to the neglect, misconduct, or fault of the lessee shall not include the loss of the reasonable value of the property at the time of the forfeiture, but the lessee shall be reimbursed by the Government for the reasonable value of such property then and there belonging to the lessee and essential to the operation of the plants.'

"After full and careful consideration, including discussions on both propositions with representatives of the respective bidders, your subcommittee has reached the unanimous decision that neither of the offers as embodied in the two bids considered, either as originally introduced or as amended by representatives of the respective bidders following discussion in the subcommittee, meet all the fundamental principles hereinbefore enumerated, and in their present forms neither sufficiently safeguards all the public interests involved.

"Your subcommittee has agreed unanimously that the principle and limitations noted in this report should be held as fundamental and any proposed legislation submitted to Congress for consideration at the next session should contain provisions based on these fundamentals.

"Your subcommittee is also of the opinion and submits to the committee that unless by the time Congress convenes for the Seventieth

Congress a bid is received which more fully and satisfactorily meets the conditions and limitations set forth in this report, an effort should be made to secure an operating contract for the production of fertilizer at Muscle Shoals, and in default thereof this committee should give the matter of operation at Muscle Shoals by a Government corporation full and careful consideration.

"The subcommittee unanimously agreed that the committee be advised that it is the sense of the subcommittee that no preliminary permit be granted by the Federal Power Commission at Cove Creek, or any other point which might affect the Muscle Shoals project, until after the expiration of the next session of Congress.

"It was also unanimously agreed that the Secretary of War be requested to allot a sufficient amount from available funds for the Government engineers to make a preliminary investigation and survey of the Cove Creek Dam proposition, including borings, and that such work be actively prosecuted so that a report to Congress can be made thereon at the beginning of the next session. It is also the sense of your subcommittee that any money expended by the Government in this preliminary work, including borings at Cove Creek, should be repaid to the Government by any licensee to whom a license might hereafter be granted by the Federal Power Commission, in case the Government should not build the dam at Cove Creek.

"It is recommended that the stenographic report of the hearings and discussions held by the subcommittee, together with data pertinent to the subject filed with the subcommittee, be printed with a proper index for the information of the committee and the Members of Congress.

"For the information of the members of the committee there is made a part of this report the proposed legislation with original language eliminated or changed indicated by stricken-through type and new language inserted indicated by italics. Proposed amendments not agreed to by the representatives of the bidders will be found in the printed hearings.

"W. FRANK JAMES.
"HARRY WURZBACH.
"J. MAYHEW WAINWRIGHT.
"NOBLE J. JOHNSON.
"HUBERT F. FISHER.
"W. C. WRIGHT.
"J. J. MCSWAIN."

These are the general principles that have become fundamental in my thinking on this subject, and I believe the country will be shocked by finding that some of them at least are now partially disregarded. I am not a blind worshiper of the past, and I recognize the full value of any ideas introduced and any suggestions coming from persons that have not been long habituated by a fixed manner of thinking on the subject. At the same time, in view of the peculiar nature of this project, in view of its essential unity, in view of its constituting an important, essential, indispensable part of our national defense program, I am still persuaded that the views of our predecessors on the committee, and the views that have prevailed in the committee since I became a member thereof up to the present modification of these views, are justified by reason, common sense, and business experience.

BOARD NECESSARY TO NEGOTIATE LEASE

I fully concur in that feature of the bill setting up a board to negotiate the terms of a lease, but, as above indicated, think that the board should be a permanent body and should therefore be confirmed by the Senate. Several years ago I became convinced that it would be impossible for the two Houses of Congress ever to negotiate the terms of a lease for this property. I therefore frequently announced this conclusion and expressed an intention of formulating a bill setting up a board to negotiate and execute the lease subject to specifications and limitations so definite and clear that the original ideas of the Congress with reference to these properties could not be frustrated. I did prepare such a bill and the same appears in the form of a committee print dated April 15, 1930. Later I revised the same somewhat by way of clarifying and amplifying the same, and it now appears as H. R. 12097. That bill represents my individual views as to the limitations and requirements that should be imposed on the board. In the bill reported by the majority of the committee I fear there is too wide a discretion vested in the board. The board has almost as much power to deal with these Government properties as the individual citizen has in dealing with his own property. It is contended by those directly responsible for the bill that these ample powers and this great latitude are necessary in order to enable the board to effectuate a lease. I know that these gentlemen are sincere in this contention, and I merely submit most respectfully that they are mistaken. There is no such urgent necessity for the swift and certain execution of a lease as to justify our taking the chances of making a serious mistake.

Having studied the problem very carefully for about eight years, having attended all the hearings within that time, having made an earnest effort to accomplish leases with proposed private operations, I am clearly of the opinion that the limitations and restrictions imposed upon the board under the terms of H. R. 12097 would not prevent the negotiation of a lease for the entire property, and that is especially true, if the alternative provision for operation of the properties by the board in the event of failure to execute such lease is coupled with the lease authorization in the same bill. I fully sympathize with the opposition to Government operation. I would turn to it most reluctantly. But I believe if we say in one and the same bill, unless private persons are willing to lease these properties upon the fair and reasonable terms that we set down, being such terms as we have all agreed upon for the last eight years or more, then the property shall be operated by the board. This will be a very persuasive and perhaps compelling consideration in the minds of both the board and prospective lessees, in hastening negotiations and in concluding a lease.

WHAT THE SPECIFICATIONS SHOULD BE

The law should insure the financial responsibility of any lessee by requiring the lessee to deposit at least $10,000,000 in such securities and with such trustee as would satisfy the board of the absolute and undisputed financial solvency and good faith of the lessee. In the next place, the law should require the lessee to fix nitrogen and to convert the same into nitrogenous plant food available as a fertilizer by direct application to the soil, in fixed quantities to be specified in the law and to be increased at fixed periods of time by fixed amounts until the maximum production capacity of both nitrate plants Nos. 1 and 2 has been reached. Of course, there should be ample authority granted to the lessee to change the process of fixing nitrogen in either or both of said plants, or to establish other plants on the same property for that purpose, but the amounts to be produced should not be left to the discretion of the board. Of course, the law should provide that if the nitrogenous fertilizer will not sell in sufficient volume to take practically the entire output of said plants, then the plants need not be operated so long as a stipulated minimum is kept in storage. Furthermore, the President should not be authorized upon the recommendation of the board to release the lessee from any of the requirements of the law or of the leases. If in the progress of science or under great economic changes the lessee can not succeed with any part of the project—for illustration, with the fertilizer feature—then Congress alone should exercise the discretion to release a lessee from the terms of his contract.

However, I have always favored a provision of law that if a lessee makes an honest effort in good faith to make a success of the fertilizer feature at Muscle Shoals, and if for any reason beyond his control the fertilizer feature fails, then the lessee should be released by Congress, and should also be reimbursed for the reasonable value of any property that the lessee might have placed upon the land of the Government for the purpose of carrying out the provisions of the lease. It would be more economical for the Government to thus have the lessee make the experiment and to fail than it would be for the Government itself to make the experiment and fail. The Government would thus own whatever plant and machinery the lessee might have installed, and it would only be a fair and reasonable inducement for the execution of a lease. Such was the opinion of the committee in its report of March 3, 1927.

SOME FAVORABLE POINTS

Candor compels the admission that, if the exact quantity of nitrogenous fertilizer to be produced were unequivocally and absolutely stipulated, the bill has several favorable features as to fertilizer, and has some features more favorable to agriculture than any bill that has been seriously considered since the Ford offer was before Congress.

(a) The limitation of 8 per cent profit on the turnover is such as to induce the lessee to turn out the greatest quantity of fertilizer consistent with the capacity of the plants and with the demands of the trade. For every dollar's worth of fertilizer he manufactures and sells, he gets 8 cents clear profit.

(b) Exceedingly important in the matter of the cost of fertilizer is the provision requiring a bilateral audit to be made each year of the cost of fertilizer for the purpose of fixing the price. It is my belief that under the set-up of this bill nitrogenous fertilizers can be produced and sold at somewhere between 25 and 40 per cent less than fertilizers containing the same kind and the same percentage of plant food are now being sold at. To insure this reduction in the selling price of nitrogenous plant food the bill contemplates an impartial ascertainment and decision of the costs of production. This is insured by the appointment of one production engineer by the lessee and another production engineer by the President on behalf of the public, and these two shall work in connection with a certified public accountant to be chosen by them, and in the event of any dispute among them as to the elements and proper items of cost they shall select a third production engineer, and after hearing all the facts and arguments for both sides, he shall render a decision. Each annual audit shall be filed with the Secretary of Agriculture and preserved for purposes of comparison and for checking in the future. This is a most valuable provision.

(c) According to the long-standing decision of the committee and of Congress, credit shall be allowed as against the cost of manufacturing fertilizer, for any profit arising from the sale of power during any period of temporary suspension in the manufacture of fertilizer. It is also provided that if the lessee installs any new process or method of fixing

nitrogen and of preparing the same for use as a fertilizer and if such new installation or method results in an economy of power, then such economy shall be divided equally between the lessee, to encourage him to make such change, and the fertilizer account, in order to give agriculture the benefit of such economy.

(d) An entirely new and highly valuable suggestion is contained in the direction that secondary power shall be employed wherever the same can be economically done, either by firming the same up by the use of supplementary steam power or by the periodic employment of secondary power. As the consumption of fertilizer is periodic, being used almost exclusively in the southern tier of States during the spring and summer, the production thereof can also be made periodic. If the period of production is made to fit the period of greatest volume of water in the Tennessee River which usually extends from the late fall to the late spring, then there should be a still greater economy in the production of such fertilizer.

(e) The stipulation that no charge shall be made against the lessee for the ammonization of nitrate plants No. 1 and No. 2 so long as they are employed in the fixation of nitrogen for agricultural purposes, is highly advantageous to fertilizer. It is a perfectly fair proposition because the bill requires that those parts of nitrate plants No. 1 and No. 2 which are employed for the oxidation of ammonia in the production of nitric acid and of ammonium nitrate, shall be maintained in good condition by the lessee and ready at all times to be employed for such purpose, for the making of the ingredients of explosives for ammunition purposes. Thus the lessee is obligated to keep up, ready for use at all times, what is virtually an arsenal, and an essential feature of national defense. In fact, the whole project of fixing nitrogen is essential to national defense. Fortunately and happily the more nitrogen we fix for agriculture the better prepared we are in that respect for war. There is no other situation analogous to it. This dual use of the plants at Muscle Shoals, this peace-time purpose and war-time mission, is similar to the supposed case of where a ship would be useful for peace time in carrying commerce and in war for fighting battles. It is also similar to what would be the case if an army were useful in peace times for producing crops, or for manufacturing products, or for carrying on useful and valuable education, and at the same time be thus better prepared for the conduct of war in that event. For these reasons, the Muscle Shoals project is unique and stands separate and apart from any other thing connected with our national-defense program. In view of the supreme importance of agriculture and of our absolute dependence upon agricultural products both in peace and in war, it is highly proper that every reasonable encouragement should be provided in the lease for the fixing of nitrogen during all the years of peace.

(f) The provision that the lessee shall not charge for any patent rights belonging to it, or to any of its officers or to any of its subsidiary or allied corporations or to their officers, is a wise protection against abuse. Furthermore, such patent rights as may be purchased for the purpose of producing fertilizer ingredients more economically shall be charged as plant account and thus distribute the cost of such patent rights through a long period of time.

(g) It will also be noted that the lessee shall be bound to carry on laboratory experiments to ascertain what, if anything, can be done to produce fertilizers more economically and in general to establish agriculture on a scientific basis. In fact, the entire plant is one huge laboratory that will prove of vast value to agriculture, and especially in breaking the power of the world trust in nitrogen, and especially in casting off the yoke that the Chilean Government and the Chilean nitrate producers have fixed upon the necks of American farmers.

(h) The right of visitation at any time by the representatives of the War Department and of the Department of Agriculture, in order to keep abreast of the progress being made in the Muscle Shoals properties in connection with the fixation and processing of nitrogen, must prove exceedingly valuable. While the information thus obtained is not to be published, it will become indirectly and eventually the property of the scientific and industrial world and will thus prove of great benefit to the whole people, producers and consumers.

(i) The right of recapture, both temporary and permanent, is absolutely protected by the provisions of the bill. In the event of war the President may by order take over the property without interference by any court and the Government shall be liable only for the actual damages sustained by the lessee on account of such taking, not including any speculative damages, and the amount of such actual damages must be ascertained by proceedings in the Court of Claims. On the other hand, in the event of failure by the lessee to carry out the terms of the lease, the President may direct the Attorney General to institute suit in any United States district court having jurisdiction of the lessee, to declare the lease vacated and ended by reason of such failure and thus accomplish the permanent recapture of the property.

(j) The manifest and reasonable provision that the lessee must be either an American citizen or a corporation owned and controlled by an American citizen and in the event of a failure in this requirement the President is to have the absolute and immediate right of reentry (by force if necessary) for the purpose of repossessing the property, and in such event there shall be no compensation paid to the lessee.

(k) The provision in section 11 whereby the power to lease is limited to the prior or contemporaneous leasing of some part of the property whereby the lessee shall agree to the production of fertilizer bases or fertilizers as specified in subsection A of section 2. While this provision is made necessary by reason of the proposed cutting up of the property into two or more parts and leasing the same to two or more lessees, and is a partial protection against the danger inherent in such plan, yet it is not a complete protection and if the bill becomes law in its present form the board must watch these dangers and hedge against them, or otherwise all hope for agricultural relief against the world monopoly in nitrogen may be abandoned. The danger lies in the possibility of the nitrate plants being leased to one or more persons, firms, or corporations that do not possess ample assets and whose financial solvency is not above question and who may not enter into the leases in good faith but merely as "straw men" or "decoys" in order to permit the leasing of the valuable power parts of the property. In such event the financially weak and morally faithless lessees of the nitrate plants might drop out of the picture very soon and the United States would be helpless. It is true there would be the performance bond on which the United States might, after long litigation, be able to collect some money, but the money would be utterly insignificant in value when compared with the losses to agriculture. Furthermore, the Government would be unable to lease these same properties to any other lessee in the face of the failure already made, and second, in view of the fact that the power and its privileges and benefits have already passed to another lessee and that lessee would probably be unfriendly to the claims and admissions of agriculture. This way lies danger, and for this reason the entire property should be tied together and if not leased to the same person, firm, or corporation, the two or more lessees should certainly be mutual guarantors. If there were one lessee only, then the failure of the provisions of the lease in any one important respect would justify the United States in recapturing the entire property. In like manner, if the lessees were mutual guarantors, no one lessee could drop out of the picture. Either all would succeed or all would fail. It will be practically impossible for all to fail, in view of the magnitude of the power privileges.

SAFETY CLAUSE

Provision is made in the bill that the negotiations for leasing and the actual lease itself shall not be transacted in a dark chamber nor in a corner. The board is required to give the widest possible publicity, inviting proposals to lease. The board is also required to furnish any person on demand full information as to the appraised value of the property. It is further provided that at least 30 days shall elapse after the board and the lessee shall agree as to the terms of the lease before the same shall become effective by the written approval of the President. During this 30 days any citizen of the United States interested in the subject, and having ground to think that a mistake is about to be made can either see the President or address a memorial or brief or other communication to the President, stating the reasons for such belief and warning the President against confirming by his approval the action of the board.

SECOND ALTERNATIVE PROVISION

I think, however, that there should not only be coupled with the authority to lease a provision that the same board shall commence the operation of the property at a fixed time, in the event that no satisfactory lease for the entire property should have been negotiated, but I also think that the bill should contain what may be rightly termed a "second alternative," providing that the same board shall have authority even after it may commence the operation of the properties, to consider any proposal made to it for leasing the property, and if a satisfactory proposal be made and a lease be executed by the board, then that the lease should contain provisions for the lessee to take over the property as a going concern by paying for the stock in process and any stock on hand, so that there may be the minimum of interruption to the business. A transfer can be made from Government operation to private operation without the stopping of a single wheel or the reduction of the fertilizer product by a single pound.

FINAL DISPOSITION OF QUESTION DESIRABLE

If the bill contained adequately definite stipulations and requirements for any lease to be executed by a continuing board to be appointed by the President and confirmed by the Senate, and if in the same bill there were provisions for the board thus constituted to operate the property upon failure to execute a satisfactory lease within the time stipulated, and if in addition there was a provision, as above indicated, giving the board power and authority to execute a lease even after commencing Government operation, then every possible phase of this long-standing and many-sided problem would be settled legislatively. To provide now for the leasing only means that if a satisfactory lease is not made, the proposition must be before Congress again with all of its perplexing complications and undisputed difficulties, in about 18 months. The question will then be the same as it is now. We are just as well prepared now to settle the entire proposition as we will be to settle it piecemeal 18 months from now. Under such a threefold disposition of the problem, every aspect of the question is met and settled. Undoubtedly the clear majority opinion is that Govern-

ment operation should be resorted to only as a last resort. But the power in the board to commence Government operation will give momentum to negotiations looking to a lease. Also, after Government operation commences, the power to make a lease will stimulate interest on the part of persons wishing to enter that field of business and wishing at the same time to be free from Government competition. From every point of view this threefold treatment of the proposal should be satisfactory and should command a prompt and overwhelming majority in both Houses.

ECONOMIC AND INDUSTRIAL RESULTS

Let us take a glimpse into the future of what will probably be the result of wise and rational action by the leasing board. If the property is leased to a concern financially responsible which intends in good faith to carry out the purposes of the act, then I can envisage a marvelous development in the whole Tennessee River region and even in adjacent sections. The first and direct result will be the production of a cheap nitrogeneous plant food which will demonstrate to the farmers and the business people of the United States the actual cost of fixing nitrogen and of processing the same for use as fertilizer. Judging by numerous estimates made by experts, the reduction will cut the present cost of nitrogen products from 25 to 40 per cent. This should break the power of the Chilean nitrate trust which has extracted tribute from the world and especially from the farmers of the United States, merely because Chile has a monopoly upon mineral nitrate of soda. Two hundred and sixty-five million dollars has been paid into the public treasury of Chile as the export duty upon nitrate of soda exported to the United States alone. When to this is added the exports of nitrate of soda to other countries, especially prior to the World War, the total receipts by the Government of Chile for such export tax must amount to more than a billion dollars. Thus the people of Chile have shifted a large part of their tax burden upon the shoulders of the people of other nations, merely because they possess a natural monopoly in an essential commodity vitally important in both peace and war.

In the next place, to ascertain the actual cost of producing such synthetic nitrogen for agricultural purposes will help to crush the world-wide Nitrogen Trust. At present the world price of nitrogen follows along and barely below the price of Chilean nitrate. Thus a monopoly on mineral nitrogen and a monopoly on synthetic nitrogen go hand in hand. If the United States Government can help break this trust team and set the farmers of this country free, it will be one of the greatest blessings that agriculture has ever received.

Commencing with 10,000 tons of pure nitrogen, in such form and combination as the leasing board may specify and as the lessee may subsequently decide to be most attractive to the farmer, the volume of fertilizers produced will increase and will probably increase very rapidly. With the advantages given to the protection of agricultural nitrogen, it is my belief that the lessee will find production profitable to himself and therefore will be induced to increase the annual quantity. In order to dispose of such increased quantity, very naturally the lessee will resort to the reasonable and proper business method of combining nitrogen with phosphoric acid and, perhaps, with potash. Phosphate rock is found in great abundance in the Tennessee River Basin. This can be floated down the river and subjected to electric furnace methods at the time of the year when cheap secondary power is available, and thus phosphoric acid produced more cheaply than it is being produced to-day by the wet process. Then probably the potash shales in that section of the country can be economically treated so as to extract the potash for agricultural purposes and leave valuable by-products of high commercial value.

It is entirely within the range of reasonable possibility that in 10 or 15 years the whole fertilizer practices in America will be revolutionized. The unit cost of plant food will be cut from 25 to 40 per cent. The present annual fertilizer expenditure is about $230,000,000 a year. Deduct 25 per cent of that and you have a saving of $56,000,000. Also the fertilizer will be more concentrated and there will be great saving in freight, in sacks, in hauling, and in handling, thus accomplishing another saving of at least $20,000,000 a year. We can thus reasonably hope to realize an annual saving of $76,000,000 for the users of commercial fertilizer.

INDUSTRIAL RESULTS

But in the field of industry the results will surely be more marvelous and astonishing. The lessee will certainly find it advantageous to set up large establishments for the production of electrochemicals and ferro-alloys. In that section of the country are all the raw materials for the manufacture of chemicals and all steel products. At the same time numerous and valuable by-products will be manufactured. Furthermore, there are 11 valuable dam sites between the Cove Creek Dam and the Wilson Dam, and the construction of the Cove Creek Dam will double the power available at each one of these dam sites. Within the next generation perhaps all of the dams in that stretch of the river will be constructed, and the power will be used not only at and near the dam, but will be sent in various directions to existing cities and towns and to new cities and towns within transmission distance.

Thus the 1,000,000 horsepower to be found along that 300-mile section of the Tennessee River from Cove Creek to Wilson Dam will become a great hive of industry. Perhaps millions of busy and industrious people will gather to use the electric energy there generated. New cities and towns will rise in places now unthought of. Many hundreds of millions of dollars will be invested in new plants and in new enterprises, and proportionate profits will arise from these investments. From the day that earth is broken for the construction of the Cove Creek Dam, which will impound 3,000,000 acre-feet of water stretching over practically 60,000 acres, the largest artificial lake in the world, the eyes of the whole country will be turned upon that section and the footsteps of millions will be directed toward the Tennessee Valley. Agriculture in that section will thrive as never before, producing diversified crops and vegetables to feed the busy millions engaged in construction and in the conduct of industry. While such a picture dazzles the imagination, it is backed up by reason and human probability, and based upon the commanding influence of cheap power. Power is the secret of modern industry. Modern industry is the impelling force of modern civilization. In this Tennessee River Valley, so rich in the quantity and variety of mineral deposits, will spring up some of the greatest industrial activities of the world. With a magnificent climate, with a productive soil, with a strong and virile population to draw from in the surrounding States, with a people devoted to the ideals of our Republic and to the principles of our Constitution, resolved to maintain and preserve order and justice, that section presents a promise of future development and prosperity comparable to what has taken place in a commercial and financial way on Manhattan Island.

IT ALL DEPENDS

But this bright picture will never be realized unless the leasing board uses great wisdom, profound business judgment, and unusual foresight in selecting the person or persons to whom the property may be leased and in prescribing the conditions under which the leases may be made. The financial responsibility of the lessees must be carefully scrutinized. If any newly organized concern, not now in business, offers to lease the property or any part thereof, the stock ownership and control of such new corporation must be thoroughly examined. I very much fear that hostile interests may organize some new corporation with the deliberate purpose of using it to help wreck the entire project, and especially to lease the nitrate plants and to operate them in such a way as to insure the defeat of the fertilizer project. Great caution must be exercised by the leasing board to prevent this result.

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H. R. 12097

A bill to authorize the leasing of the Muscle Shoals property, upon certain terms and conditions, to provide for the national defense and for the regulation of interstate commerce, and for other purposes

*Be it enacted, etc.*—

TITLE I. LEASING PROVISIONS

SECTION 1. That the board of directors hereinafter authorized to be appointed, and hereinafter described merely as the board, shall upon appointment and confirmation, proceed to organize as hereinafter directed, and shall first of all cause to be made a true and correct inventory of all the property now known as the Muscle Shoals project, including the Wilson Dam, described generally as Dam No. 2, nitrate plant No. 1, nitrate plant No. 2, Waco Quarry together with all real estate and all other property belonging to the United States, in said vicinity, used or intended to be used in connection with said properties and generally understood and considered as part and parcel thereof; and shall appraise the value thereof, and said appraisal shall be made upon the basis of the actual present commercial and economic value of said property, and said appraisal shall not include a reasonable allowance in the valuation of Dam No. 2 as a contribution for navigation, nor shall such appraisal include such part of nitrate plants Nos. 1 and 2 as is used, after the fixation of nitrogen, for the oxidation of such nitrogen in converting the same into nitric acid and nitrates for the reason that such parts of said nitrate plants Nos. 1 and 2 are useful only in producing a component part of explosives for ammunition.

That after all said property shall have been appraised, the board is hereby authorized and empowered for and during the period of 6 months after said appraisal shall have been completed and shall have been approved by them, to enter into negotiations with any such person or persons, firm or corporation, that shall indicate a desire to lease said property for a period not exceeding 50 years; and the terms, conditions, and restrictions that shall be included in said lease, together with such other terms, conditions, and restrictions as shall appear to the board to be desirable and proper for the protection of the interests of the public and of the Government and consistent herewith, and in furtherance of the provisions and purposes of this act, shall be as follows:

(a) That the property shall at all times be subject to the absolute right and control of the Government for the production of nitrates as ammunition components, and that nitrate plants Nos. 1 and 2 and/or their capacity equivalent and any other nitrogen-fixation plant or plants, using any method or process of fixation whatsoever that may

be installed by the lessee, together with any additions, alterations, and improvements that may be made upon nitrate plants Nos. 1 and 2, shall at all times during the period of said lease be kept available and in stand-by condition, ready and capable at all such times to be employed by the Government, or for the Government, in the production of nitrates or other explosive ammunition components.

(b) That the lessee or lessees of said property shall be obligated in the strictest terms to the manufacture and sale to the public of a nitrogenous fertilizer complete and ready for use by the farmer by direct application to the soil and crops in concentrated form.

(c) That any lease of the said Muscle Shoals property shall be for the entire plant as the same now exists, but not to include the navigation locks, canals, and appurtenances thereof, and shall not include Dam No. 3 if and when the same shall be constructed, and shall not include the Cove Creek Dam if and when constructed, but the lessee shall be bound in the strictest terms to make additional compensation for increased primary power made available by the construction of Dam No. 3 and/or of Cove Creek Dam, either or both, as shall be hereinafter more specifically set forth, but the board shall operate Dam No. 3 and Cove Creek Dam and their corresponding power houses and plants, as hereinafter directed.

(d) That any such lease as may be entered into shall contain a clause or clauses providing and requiring that the lessee shall return to the Government in cash or account for the same by the reduction in the price of fertilizer or in fertilizer components part or parts, as the board shall decide and declare, for such profits from the sale of power which may result from the temporary and unavoidable discontinuance of the manufacture of fertilizer and/or fertilizer component part or parts, and that such manufacture of fertilizer or fertilizer parts may be discontinued only when there is an excess accumulation of fertilizer stocks unsold in excess of the reasonable and probable demands for such fertilizer, as found and declared by the board, and thereafter when such accumulated stocks shall have been reduced to a reasonable degree the lessee shall be bound to resume the manufacture of such fertilizers.

(e) That any such lease shall provide absolutely and unequivocally for the forfeiture of all rights of the lessee in the event of the failure to keep in good faith its obligations under the terms of the lease, and the lessee shall be bound by the lease to the production and manufacture of fixed nitrogen of a kind and quality and in a form available as plant food and capable of being applied directly to the soil in connection with the growth of crops, of 10,000 tons of fixed nitrogen per year for the first two years of said lease period, and 20,000 tons of fixed nitrogen for the third and fourth years of the lease period, 30,000 tons per year for the fifth and sixth years of the lease period, 40,000 tons per year of fixed nitrogen for the seventh and eighth years of the lease period, and thereafter at least 48,000 tons of fixed nitrogen for each and every year; and no diminution nor reduction of the amount of manufacture and fixation of such nitrogen shall be permitted or allowable under any circumstances, act of God, public enemy, and vis majeur strikes, lockouts and like unavoidable forces only excepted, except and unless the board shall find as a matter of fact that there is an excess amount of such fixed nitrogen on hand and in storage in excess of the reasonable and probable demands for same, and in such event the board shall have the power to permit by written order and authority the reduction in the volume of such nitrogen to be fixed and manufactured for any one year, subject to the condition herein stated that due credit and allowance shall be made for the use of such power otherwise, or the sale of such power, as shall be released by reason of such temporary discontinuance of the manufacture and fixation of nitrogen for agricultural use.

(f) The board shall lease such properties only to such persons, firm, or corporation as shall be, in its judgment, best qualified and prepared to carry out the purposes of this act by the manufacture and sale at reasonable prices of fertilizer and/or fertilizer ingredients in concentrated form, available as plant food and capable of being applied directly to the soil in the production of crops, the manufacture of electrochemicals and ferro-alloys, and for the sale, transmission, and equitable distribution of such surplus power as may be developed at said plant, among the several States, counties, and municipalities within transmission distance. Said fertilizer and/or fertilizer ingredients in concentrated form to contain nitrogen of the gross aggregate volume and weight as are hereinbefore stipulated, shall be produced and sold by the lessee at a profit not exceeding 8 per cent above the actual cost of production, which shall include 6 per cent interest on any fertilizer-plant equipment installed by lessee at its expense, and such profit shall be based upon the cost of the turnover in production, and such cost shall be ascertained annually by a careful and thorough audit of the items of cost entering into the production of such fertilizer and/or fertilizer ingredients in concentrated form as above defined, and such audit shall be made annually by one reputable firm of certified accountants selected by the lessee and by another reputable firm of certified public accountants selected by the board, and these two shall work in cooperation and in conjunction at the same time and place in the auditing of such costs of producing such fertilizer and/or fertilizer ingredients in concentrated form; and in the event of any dispute or differences of opinion as to any item or items entering into such cost or correct method of accounting by the said two firms of certified public accountants employed in the auditing of such costs, a third firm of certified public accountants shall be appointed by the President of the United States upon certificate of such disagreement and difference of opinion, and the facts and figures relating to such dispute or disputes and differences of opinion shall be laid before such third firm of certified public accountants so appointed by the President, at a public hearing at which any person or persons having information of facts relating to such cost of manufacturing such finished fertilizer and/or fertilizer ingredients in concentrated form, shall be heard, and after full hearing and oral argument or discussion by both sides the firm of certified public accountants so appointed by the President shall then and there render its decision and such decision shall be final as to the costs for such manufacture of fertilizer, and by adding 8 per cent thereto the price for the sale of such fertilizer shall be ascertained and fixed and publicly declared, and the actual expenses shall be paid by the lessee.

(g) No lease shall be made to any person, firm, or corporation unless such person, firm, or corporation shall demonstrate by the deposit, subject to the order of the board, of the sum of $10,000,000 in such place and of such forms of securities as shall satisfy the board of the absolute and undisputed solvency and good faith of the lessee, and of the financial ability of the lessee to carry out the terms of its lease; and if the lessee shall fail or neglect to carry out in good faith any of the terms and provisions of such lease, all such money and all such securities representing money as shall have been deposited as herein directed shall be declared forfeited by the board for the use and benefit of the United States, and shall be applied in satisfaction of damages for such breach of contract, which are hereby declared to be liquidated damages, and if said $10,000,000 or any part thereof shall have been invested by the lessee in any buildings, machinery, equipment, or other property used in connection with the property hereby leased, then all such property shall be forfeited to the United States for the purposes herein stated.

(h) If and when Dam No. 3 on the Tennessee River located about 15 miles up said river from Dam No. 2, known as the Wilson Dam, shall be constructed by the United States Government in aid of navigation and of flood relief and for the purpose of increasing the primary power of the power-generating plant now belonging to the United States at Muscle Shoals, then the lessee and the board shall, respectively, appoint competent engineers to ascertain the extent to which the existence of said Dam No. 3 shall increase the primary power at said Dam No. 2, and the lessee shall be bound by the lease to pay to the United States Government the reasonable value of such increase of power as said engineers shall ascertain; and if said two engineers appointed by the board and the lessee, respectively, shall disagree either as to the amount whereby said power shall be increased or as to the value thereof, then the President of the United States upon certificate of such disagreement shall appoint a third engineer who shall hear the facts that shall be presented by both sides, and such facts as shall be presented by any other person having knowledge of the facts, at a public hearing, of which due notice shall be given, and after such hearing and after a full discussion by both sides, such engineer so appointed by the President of the United States shall make decision and shall make public announcement of such decision, and such decision shall be final and binding on both parties, and the actual expenses shall be paid by lessee.

(i) If and when the United States shall build a dam in and across Clinch River in the State of Tennessee, commonly designated as Cove Creek Dam, for the purpose of regulating commerce by promoting navigation in the Tennessee River and its tributaries, and of flood control, and for the purpose of increasing the value of its property now at Muscle Shoals, then the lessee shall be bound by the terms of said lease to pay to the United States Government the reasonable value of such increase of primary power at Wilson Dam as shall result from the construction and operation by the Government of said dam in Cove Creek; and in order to ascertain the extent of such increase of primary power and the reasonable value thereof, the lessee and the board shall, respectively, appoint engineers to study the facts and to ascertain the extent of such increase of primary power, and the value thereof, and in the event of any disagreement by the said engineers so appointed, and upon certificate of such disagreement, the President of the United States is hereby authorized and directed to appoint a third engineer, who shall study the facts and shall at a public hearing hear the facts as the same shall be presented by both sides, including said engineers and any other person that may have knowledge of any facts relating to the question, and at such public hearing said engineer so appointed by the President of the United States shall make and render his decision and make public announcement thereof, and such decision shall be final and binding upon both parties, and the actual expenses shall be paid by lessee.

(j) The lessee shall be bound by the terms of said lease to pay to the United States as rent for the use of said property a sum of money that shall represent 4 per cent per annum upon the present ascertained and appraised value of said property so leased as herein required to be appraised, said payment to be made semiannually, and the lessee shall further be bound to keep the property in good condition and in a good state of repair, reasonable wear and tear and inevitable depreciation by

time excepted and loss by fire, flood, storm, earthquake, or other natural disturbance excepted, and any failure by the lessee to make any of said payments or to pay semiannually for the value of the increase of power by reason of the construction of either Dam No. 3 or the Cove Creek Dam, as herein specified, or for the failure and neglect of the lessee to keep, observe, and perform any of the other conditions and stipulations of the lease, shall operate as a forfeiture of all rights of the lessee under the lease, and upon such forfeiture the United States shall have the right upon the request of the board to institute by the Attorney General of the United States suit in any district court of the United States to declare the rights of the lessee forfeited and to eject the lessee from the premises and to put the United States, by its agent, the board, in possession thereof.

(k) All power used by the lessee for the manufacture of fertilizer and/or fertilizer ingredients in concentrated form shall be charged at the actual cost of production of such power, without including any profit to the lessee but including rental herein required to be paid, and such cost, including the auxiliary steam power employed to increase the volume of primary power, shall be ascertained annually and computed in the manner prescribed for ascertaining the costs of fertilizer and shall constitute one of the elements of such ascertainment of costs. All that portion of the property that shall be used by the lessee for the fixation of atmospheric nitrogen and for the conversion of same into plant food suitable for agricultural use by direct application to the soil and to the crops, shall be separately appraised in the manner herein prescribed for such appraisement, and in computing the costs of fertilizers only the rental herein required to be paid to the Government for such part of the entire plant as shall be used for such purpose shall be included and computed as one of the elements of the cost of such fertilizer and/or fertilizer ingredients in concentrated form, and the same shall not include any profit to lessee on account of the power so employed but including rental on the dam and steam-power plant. The lessee shall employ in its fertilizer-manufacture processes, or in such part of them as may be feasible and practicable, secondary power wherever and whenever available, because of its cheapness, when the board shall find that the use of such cheap secondary power shall reasonably enable the lessee to produce such fertilizer and/or fertilizer ingredients in concentrated form at a cost below what would be the cost if primary power exclusively were employed in producing and manufacturing the same. Primary power is hereby defined to be such power as shall be available from the combined and cooperating sources of water and the steam plant for 95 per cent of the time during any one year.

(l) The lessee shall be authorized and permitted to construct new buildings and to enlarge the steam plant and install other hydro-generating units upon the land belonging to the Government at Muscle Shoals for use in connection with the fixation of nitrogen and the conversion thereof into fertilizer and/or fertilizer ingredients in concentrated form, and for the manufacture of electrochemicals, and for the manufacture of ferro-alloys, and upon the expiration of the period of the lease, if lessee shall have performed all of its covenants and agreements, the lessee shall be permitted to remove the machinery in said buildings installed and used by it for the purposes aforesaid, or to sell said machinery to the succeeding lessee or to the Government, but the lessee shall not remove the steam plant or generating units installed by it, nor the buildings nor any outside fixtures, equipment, appliances, such as power-transmission lines, railroad tracks, water and gas pipes, and other such property, including warehouses, storage tanks, and storage bins, nor shall the lessee remove any house or machinery installed therein and used for any purpose other than the purposes above stipulated, but all such property belonging to the lessee and constructed upon the land of the Government, and all machinery, equipment, fixtures, and appliances installed and used in connection herewith, shall belong absolutely and in fee simple to the Government as a part of its property, but this shall not include stock in process, nor manufactured products, nor its tools, implements, and instruments, nor its office furniture and fixtures, which lessee may remove.

(m) The board shall have the right and it shall be its duty to advise the lessee from time to time, as it shall see fit, as to the nature, kind, and quality and composition of the fertilizer and/or fertilizer ingredients in concentrated form to be manufactured by lessee, so that same shall be reasonably acceptable to the consuming public, either as a dilute fertilizer or in concentrated form, as the board may require and the trade demand; and if the lessee shall refuse to comply with such advice, and if in consequence of such refusal the fertilizer product or products of the lessee shall not be sold in sufficient volume to justify the continuance of its manufacture in the volume herein required, and if the manufacture of such fertilizer and/or fertilizer ingredients shall thereafter be discontinued by the lessee, the board shall thereupon have the right to request the United States Attorney General on behalf of the Government to institute proceedings in any district court of the United States to declare the lease to be null and void on account of the failure of the principal and paramount purpose of the lease, and in considering such facts as shall be alleged by the Government in the suit, the court may consider the refusal of the lessee to follow the advice of the board in the matters herein mentioned, as some evidence upon the issue of good faith or bad faith of the lessee.

(n) The lessee shall be bound by the terms of the lease to recondition nitrate plant No. 1 so that the same may be effective and useful in the fixation of nitrogen by direct synthesis and to operate the same to capacity for that purpose so as to increase the volume of nitrogen available for agricultural purposes, and the demands of agriculture being supplied, then for industrial purposes. The lessee shall be bound by the terms of the lease to use all of the primary hydraulic power now available at Dam No. 2 for the fixation of atmospheric nitrogen; and if the demands, first, of agriculture and, second, of industry for nitrogen and nitrogen products shall be sufficient to justify the same, the lessee shall also employ the available steam power in connection with secondary hydraulic power to enable the lessee to increase the quantity of such nitrogen and nitrogen products.

(o) The lessee shall be bound to determine by research, whether by means of the electric-furnace methods and industrial chemistry or otherwise, there may be produced on a commercial scale fertilizer compounds of higher grade and at lower prices than farmers and other users of commercial fertilizers have in the past been able to obtain, and to determine whether in a broad way the application of electricity and industrial chemistry may accomplish for the agricultural industry of the Nation what these forces and sciences have accomplished in an economical way for other industries; and the lessee shall be bound to conduct experimental researches to ascertain whether or not by a compound and mutually reacting process or method of manufacturing it is practical and economical to employ as raw materials phosphate rock, and coal, limestone, and potash shale in producing a concentrated fertilizer containing three elements of plant food, to wit, nitrogen, phosphorus, and potash, in useful proportion and in available form, and at reasonable cost.

(p) No lease shall be made to any person, firm, or corporation except to American citizens and to a corporation owned and controlled by American citizens, and the lease shall provide that if at any time the lessee or the lessee corporation shall cease to be under the direct, free, and legal control of American citizens, then all rights under the lease shall immediately cease, and the United States by order of the President shall have the right of reentry and recapture without any compensation whatever to the lessee on any account whatsoever.

(q) The Muscle Shoals property hereby and herein authorized to be leased shall not include the navigation facilities, including the canal, the locks, the lifts, and any other appliances and equipment now existing or hereafter to be installed in aid of navigation, on the Tennessee River, and/or its tributaries.

(r) The sale and distribution of fertilizer and/or fertilizer ingredients shall be subject to and in accordance with general regulations to be formulated and promulgated by the board. In said regulations formulated by the board preference shall be given in the way of sales and deliveries, first to farmers or groups of farmers, or cooperative farm associations, and next to States and State agencies engaged in buying, mixing, selling, and distributing fertilizers for farmers; and any surplus left over after these priority claims are supplied may be sold to fertilizer manufacturers, mixers, and dealers.

(s) The lessee shall be bound upon the requisition of the Secretary of War, or the Secretary of the Navy, to manufacture for and to sell to the United States in peace nitrogenous contents of explosives at a cost not exceeding 4 per cent, based upon the same methods of accounting and calculation as are applied for the ascertaining of the costs and the fixing of the prices of fertilizer and/or fertilizer ingredients. There shall be reserved to the Government of the United States, in case of war or national emergency declared by Congress, the right to take possession of all or any part of the property described and leased by authority of this act for the purpose of manufacturing explosives or the nitrogenous contents of explosives or for other war purposes; but if the Government shall exercise this right it shall pay to the lessee fair and reasonable actual damages that it may suffer by reason of such taking by not including profits or speculative damages, and the amount of such actual damages shall be fixed in proceedings instituted in the United States Court of Claims by the lessee, or its assigns, in accordance with the rules and regulations prescribed by that court for such proceedings.

(t) The lessee shall not charge in the cost of the manufacture of fertilizer and/or fertilizer ingredients any sum of money whatsoever for the use of any patents or patent process belonging to or controlled by it or belonging to or controlled by any officer or agent of it, or belonging to or controlled by any affiliated or subsidiary corporation, or belonging to or controlled by any agent of any subsidiary or affiliated corporation, and the lessee shall not purchase any patent right or process or contract to pay any royalty for the use of any such patent right or patent process without the previous authority and consent of the board as to the amount to be paid for such patent right or patented process or for the right to employ any such patent right or patented process.

(u) The lessee shall be bound by the terms of its lease to submit annually to the board a list of all of the officers, agents, and employees, and charged as a part of the costs of manufacturing fertilizer and/or

fertilizer ingredients, and the board shall have the right to criticize and protest against any salary or salaries that may be paid for said purpose; and if the lessee shall fail to meet the reasonable criticisms of the board and shall fail to satisfy the board as to the reasonableness of any salary or salaries finally fixed, and if the fertilizer and/or fertilizer ingredients manufactured and offered for sale by the lessee are not purchased by the consuming public in sufficiently large volume to take the capacity production of the lessee, and if in consequence thereof a discontinuance of the manufacture of such fertilizer and/or fertilizer ingredients shall result, and if the United States Government by its Attorney General shall at the request of the board institute proceedings to declare the lease null and void for these reasons, along with any other reasons, then such failure of the lessee to reduce the salaries paid to its said officers, agents, and employees, in accordance with the protest of the board, shall be considered by the court as a circumstance bearing upon the good faith or bad faith of the lessee.

(v) The lessee shall have the right to install an addition to the steam plant built along and in connection with nitrate plant No. 2, and to use the power produced by such addition, estimated to be 40,000 horsepower, in connection with secondary power developed at Wilson Dam No. 2, and in such event the lessee shall be bound to pay to the United States the reasonable value of such secondary power thus made available for use as primary power; and if the lessee and the board shall be unable to agree upon the reasonable value of such secondary hydraulic power, they shall each appoint a competent and disinterested engineer, and if these two engineers fail to agree, then the President of the United States shall appoint a third engineer who shall consider the facts and hear arguments presented by both sides and after such hearing, shall, within a reasonable time, render his decision in writing and the same shall be binding, final, and conclusive upon all parties. In like manner if the lessee shall build at its own expense any other steam plant for use in connection with secondary power so as to increase the total volume of primary power, then in such case the lessee shall be bound to pay to the board the reasonable value of such secondary hydraulic power, and in the event of dispute the amount shall be ascertained and fixed in the manner above prescribed.

(w) In general, the parties to the lease, the Attorney General, and the courts shall at all times construe the lease in the light of the powers and duties hereinafter conferred upon the board for the purposes of accomplishing the aims and objects of this act, and it shall be the general purpose and intent of the lease to effectuate and carry out the purposes and reasons for this act as a whole, and of section 124 of national defense act of June 3, 1916.

(x) If and when the board shall have negotiated the terms of a lease with any person, firm, or corporation the parties shall prepare a draft of said lease in conformity with the provisions of this act and of the powers herein contained and of the purposes herein expressed, but before signing, executing, and delivering the same such draft shall be submitted by letter of the board and of the lessee to the Attorney General of the United States, who shall permit inspection of the same and furnish copies thereof to public press or any citizen of the United States who shall apply for same, and if written objections to any portion or portions of said lease shall be filed with the Attorney General within 20 days after the lease shall have been submitted to him, he shall thereupon fix a time, not more than 10 days deferred, and place for a hearing of any and all such objections as may be made and shall within 10 days after such hearing render his conclusions and opinion in writing, and the same shall be binding on all parties, except the proposed lessee, who shall be privileged to refuse to conclude the lease. If negotiations are thereupon renewed, and if a new draft shall be agreed upon between the parties, then like proceedings shall be had before the Attorney General with the like result.

(y) If the board shall fail to negotiate, execute, and conclude a lease for the Muscle Shoals property within six months after its appraisement of said property shall have been completed, then the board shall proceed to operate the plant pursuant to the powers and directions of this act. Nevertheless, if at any time after the expiration of said six months' period and after such operation of said property by the board shall have been commenced, any person, firm, or corporation shall offer to negotiate with the board for the lease of the property subject to all the provisions and limitations herein contained, the board shall consider the offer, and if the board shall be able to agree with the prospective lessee as to the terms and conditions of a lease, then a draft thereof shall be submitted to the Attorney General of the United States and the like proceedings be followed as set forth in the preceding section. If the board shall fail to negotiate a lease and shall refuse to accept the offer of any proposed lessee, the board shall nevertheless report the offer as a part of its annual report and shall state in writing its reasons for refusing the same. If the board shall negotiate, conclude, and execute a lease at any time after the board shall have commenced the operation of the property pursuant to the powers herein contained and subject to all the provisions and limitations herein contained, then the board shall, as a part of said lease, include an agreement on the part of the lessee to pay for the appraised value of any additions or alterations that shall have been made to and upon the property by the board, and to pay for the appraised value of all raw material on hand, of all stock in process and of all manufactured products, and the lessee shall thereupon be put in possession of the property without any interruption whatever to the operation of same as a going concern.

SEC. 2. Organization of the board: There is hereby created a body corporate by the name of the "Muscle Shoals Corporation of the United States" (hereinafter referred to as the corporation). The board of directors first appointed shall be deemed the incorporators and the incorporation shall be held to have been effected from the date of the first meeting of the board.

SEC. 3. (a) The board of directors of the corporation (herein referred to as the board) shall be composed of three members, not more than two of whom shall be members of the same political party, to be appointed by the President, by and with the advice and consent of the Senate. The board shall organize by electing a chairman, vice chairman, and other officers, agents, and employees, and shall proceed to carry out the provisions of this act.

(b) The terms of office of the members first taking office after the approval of this act shall expire as designated by the President at the time of nomination, one at the end of the second year, one at the end of the fourth year, and one at the end of the sixth year, after the date of approval of this act. A successor to a member of the board shall be appointed in the same manner as the original members and shall have a term of office expiring six years from the date of the expiration of the term for which his predecessor was appointed.

(c) Any Member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(d) Vacancies in the board so long as there shall be two members in office shall not impair the powers of the board to execute the functions of the corporation, and two of the members in office shall constitute a quorum for the transaction of the business of the board.

(e) Each of the members of the board shall be a citizen of the United States and shall receive compensation at the rate of $50 per day for each day that he shall be actually engaged in the performance of the duties vested in the board, to be paid by the corporation as current expenses, not to exceed, however, 150 days for the first year after the date of the approval of this act, and not to exceed 100 days in any year thereafter. Members of the board shall be reimbursed by the corporation for actual expenses (including traveling and subsistence expenses) incurred by them while in the performance of the duties vested in the board by this act.

(f) No director shall have any financial interest in any public-utility corporation engaged in the business of distributing and selling power to the public nor in any corporation engaged in the manufacture, selling, or distribution of fixed nitrogen, or any ingredients thereof, nor shall any member have any interest in any business that may be adversely affected by the success of the Muscle Shoals project as a producer of concentrated nitrogenous fertilizers.

(g) The board shall direct the exercise of all the powers of the corporation.

TITLE II. OPERATION BY THE BOARD

SECTION. 1. (a) If the board shall have not executed and delivered a lease within the time herein specified, and subject to the terms herein set forth, then in that event only shall the following provision with reference to the operation of the Muscle Shoals property by the board become effective, but in such event the board shall proceed to execute the powers and directions hereinafter conferred.

(b) The chief executive officer of the corporation shall be a general manager, who shall be responsible to the board for the efficient conduct of the business of the corporation. The board shall appoint the general manager, and shall select a man for such appointment who has demonstrated his capacity as a business executive. The general manager shall be appointed to hold office for 10 years, but he may be removed by the board for cause, and his term of office shall end upon repeal of this act, or by amendment thereof expressly providing for the termination of his office. Should the office of general manager become vacant for any reason, the board shall appoint his successor as herein provided.

(c) The general manager shall appoint, with the advice and consent of the board, two assistant managers, who shall be responsible to him, and through him to the board. One of the assistant managers shall be a man possessed of knowledge, training, and experience to render him competent and expert in the production of fixed nitrogen. The other assistant manager shall be a man trained and experienced in the field of production and distribution of hydroelectric power. The general manager may at any time for cause remove any assistant manager and appoint his successor as above provided. He shall immediately thereafter make a report of such action to the board, giving in detail the reason therefor. He shall employ, with the approval of the board, all other agents, clerks, attorneys, employees, and laborers.

(d) The combined salaries of the general manager and the assistant managers shall not exceed the sum of $50,000 per annum, to be apportioned and fixed by the board.

SEC. 2. Except as otherwise specifically provided in this act, the corporation—

(a) Shall have succession in its corporate name.

(b) May sue and be sued in its corporate name, but only for the enforcement of contracts and the defense of property.

(c) May adopt and use a corporate seal, which shall be judicially noticed.

(d) May make contracts, but only as herein authorized.

(e) May adopt, amend, and repeal by-laws.

(f) May purchase or lease and hold such personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

(g) May appoint such officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation, define generally their duties, require bonds of them and fix the penalties thereof, and dismiss at pleasure any such officer, employee, attorney, or agent, and provide a system of organization to fix responsibility and promote efficiency.

(h) The board shall require that the general manager and the two assistant managers, the secretary and the treasurer, the bookkeeper or bookkeepers, and such other administrative and executive officers as the board may see fit to include, shall execute and file before entering upon their several offices good and sufficient surety bonds, in such amount and with such surety as the board shall approve.

(i) Shall have all such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation, including the right to exercise the power of eminent domain.

SEC. 3. The board is hereby authorized and directed—

(a) To operate existing plants for fixation of nitrogen in quantity available as plant food by direct application to the soil; to construct, maintain, and operate experimental plants and/or laboratories at or near Muscle Shoals for the manufacture of fertilizer, and/or of any of the ingredients comprising fertilizer, and of any useful and profitable by-products of same.

(b) To arrange with farmers and farm organizations for large-scale practical use of the new forms of fertilizers under conditions permitting an accurate measure of the economic return they produce.

(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction.

(d) The board shall manufacture and sell fixed nitrogen at Muscle Shoals by the employment of existing facilities (by modernizing existing plants), or by any other process or processes that in its judgment shall appear wise and profitable for the fixation of atmospheric nitrogen. The fixed nitrogen provided for in this act shall be in such form and in combination with such other useful ingredients as shall make such nitrogen immediately available and practical for use by farmers in application to soil and crops.

(e) The selling price of fertilizer ingredients and nitrogen products shall be fixed in advance from time to time by the board, and all sales shall be direct or through such intermediaries as will contract fixing the maximum prices to be charged the ultimate consumer; and such prices shall be so fixed as to include all the expenses of the board and its clerical and technical force, and of producing, marketing, and distributing such commodities, including 4 per cent on the appraised value of that part of the plant used and 4 per cent on the cost of any additions, alterations, and improvements employed for such purpose, and such 4 per cent shall be paid by the board into the Treasury of the United States. Such sales shall be only in carload and for cash free on board Muscle Shoals, Ala.

(f) The board is authorized to make alterations, modifications, or improvements in existing plants and facilities.

(g) To establish, maintain, and operate laboratories and experimental plants, and to undertake experiments for the purpose of enabling the corporation and private manufacturers of nitrogen products to furnish nitrogen products and kinds of plant food for agricultural purposes in the most economical manner and at the highest standard of efficiency.

(h) The board shall have power to request the assistance and advice of any officer, agent, or employee of any executive department or of any independent office of the United States, to enable the corporation the better to carry out its powers successfully, and the President shall, if in his opinion the public interest, service, and economy so require, direct that such assistance, advice, and service be rendered to the corporation, and any individual that may be by the President directed to render such assistance, advice, and service shall be thereafter subject to the orders, rules, and regulations of the board and of the general manager.

(i) Upon the requisition of the Secretary of War or the Secretary of the Navy to manufacture for and sell at cost to the United States the nitrogenous content of explosives.

(j) Upon the requisition of the Secretary of War the corporation shall allot and deliver without charge to the War Department so much power as shall be necessary in the judgment of said department for use in operation of all locks, lifts, or other facilities in aid of navigation.

(k) To produce, distribute, and sell electric power, as herein particularly specified.

(l) No products of the corporation shall be sold for use outside of the United States, her Territories and possessions, except to the United States Government for the use of its Army and Navy or to its allies in case of war.

SEC. 4. In order to enable the corporation to exercise the powers vested in it by this act—

(a) The exclusive use, possession, and control of the United States nitrate plants Nos. 1 and 2, located, respectively, at Sheffield, Ala., and Muscle Shoals, Ala., together with all real estate and buildings connected therewith, all tools and machinery, equipment, accessories, and materials belonging thereto, and all laboratories and plants used as auxiliaries thereto; the fixed-nitrogen research laboratory, the Waco limestone quarry, in Alabama, and Dam No. 2, located at Muscle Shoals, its power house, and all hydroelectric and operating appurtenances (except the locks), and all machinery, lands, and buildings in connection therewith, and all appurtenances thereof and Dam No. 3 and Cove Creek Dam, if and when constructed, shall be intrusted to the corporation for the purpose of this act, under the provisions of section 4 (a) of this act.

(b) The President of the United States is authorized to provide for the transfer to the corporation of the use, possession, and control of such other real or personal property of the United States as he may from time to time deem necessary and proper for the purposes of the corporation as herein stated.

SEC. 5. (a) The corporation shall maintain its principal office in the immediate vicinity of Muscle Shoals, Ala. The corporation shall be held to be an inhabitant and resident of the northern judicial district of Alabama within the meaning of the laws of the United States relating to venue of civil suits.

(b) The corporation shall at all times keep, maintain, and preserve complete and accurate books of accounts, and all meetings and proceedings of the board.

SEC. 6. (a) The board shall file with the President and with the Congress, in December of each year, a financial statement and a complete report as to the business of the corporation covering the preceding fiscal year. This report shall include the total number of employees and the names, salaries, and duties of those receiving compensation at the rate of more than $2,500 a year. The plants and laboratories may be inspected at any time only on written permission of the board, or its specially authorized agent.

(b) The board shall require a careful and scrutinizing audit and accounting by the General Accounting Office during each governmental fiscal year of operation under this act, and said audit shall be open to inspection to the public at all times, and copies thereof shall be filed in the principal office of the Muscle Shoals Corporation at Muscle Shoals in the State of Alabama. Once during each fiscal year the President of the United States shall have power, and it shall be his duty, upon the written request of at least two members of the board, to appoint a firm of certified public accountants of his own choice and selection which shall have free and open access to all books, accounts, plants, warehouses, offices, and all other places, and records, belonging to or under the control of or used by the corporation in connection with the business authorized by this act. And the expenses of such audit so directed by the President shall be paid by the board and charged as part of the operating expenses of the corporation.

SEC. 7. The board is hereby empowered and authorized to sell the surplus power not used in its operations and for operation of locks and other works generated at said steam plant and said dam to States, counties, municipalities, corporations, partnerships, or individuals, according to the policies hereinafter set forth, and to carry out said authority the board is authorized to enter into contracts for such sale for a term not exceeding 10 years and in the sale of such current by the board it shall give preference to States, counties, or municipalities purchasing said current for distribution to citizens and customers: *Provided further*, That all contracts made with private companies or individuals for the sale of power, which power is to be resold for a profit, shall contain a provision authorizing the board to cancel said contract upon two years' notice in writing, if the board needs said power in its own manufacturing operations or to supply the demands of States, counties, or municipalities.

SEC. 8. It is hereby declared to be the policy of the Government to distribute by sale at reasonable prices the surplus power generated at Muscle Shoals equitably among the States, counties, and municipalities within transmission distance of Muscle Shoals, and the net proceeds of such sale shall be paid into the Treasury of the United States.

SEC. 9. In order to place the board upon a fair basis for making such contracts and for receiving bids for the sale of such power, it is hereby expressly authorized, either from appropriations made by Congress or from funds secured from the sale of such power, to construct, lease, or authorize the construction of transmission lines within transmission distance in any direction from said Dam No. 2, the Cove Creek Dam, and Dam No. 3 and said steam plant: *Provided*, That if any State, county, municipality, or other public or cooperative organization of citizens or farmers, not organized or doing business for profit, but for the purpose of supplying electricity to its own citizens or members, or any two or more of such municipalities or organizations, shall construct or agree to construct a transmission line to Muscle Shoals, the board is hereby authorized and directed to

contract with such State, county, municipality, or other organization, or two or more of them, for the sale of electricity for a term not exceeding 30 years, and in any such case the board shall give to such State, county, municipality, or other organization ample time to fully comply with any local law now in existence or hereafter enacted providing for the necessary legal authority for such State, county, municipality, or other organization to contract with the board for such power: *Provided further,* That all contracts entered into between the corporation and any municpality or other political subdivision shall provide that the electric power shall be sold and distributed to the ultimate consumer without discrimination as between consumers of the same class, and such contract shall be void if a discriminatory rate, rebate, or other special concession is made or given to any consumer or user by the municipality or other political subdivision: *And provided further,* That any surplus power not so sold as above provided to States, counties, municipalities, or other said organizations, before the board shall sell the same to any person or corporation engaged in the distribution and resale of electricity for profit, it shall require said person or corporation to agree that any resale of such electric power by said person or corporation shall be sold to the ultimate consumer of such electric power at a price that shall not exceed an amount fixed as reasonable, just, and fair by the appropriate State utility commission; and in case of any such sale if an amount is charged the ultimate consumer which is in excess of the price so deemed to be just, reasonable, and fair by the appropriate State utility commission, the contract for such sale between the board and such distributor of electricity shall be declared null and void and the same shall be canceled by the board.

SEC. 10. Two per cent of the gross proceeds received by the board for the sale of power generated at Dam No. 2, or from the steam plant located in that vicinity, or from any other steam plant hereafter constructed in the State of Alabama, shall be paid to the State of Alabama; and 2 per cent of the gross proceeds from the sale of power generated at Cove Creek Dam, hereinafter provided for, shall be paid to the State of Tennessee. Upon the completion of said Cove Creek Dam the board shall ascertain how much excess power is thereby generated at Dam No. 2, and from the gross proceeds of the sale of such excess power 1 per cent shall be paid to the State of Alabama and 1 per cent to the State of Tennessee. In ascertaining the gross proceeds from the sale of such power upon which a percentage is paid to the States of Alabama and Tennessee the board shall not take into consideration the proceeds of any power sold or delivered to the Government of the United States, or any department of the Government of the United States or used in the operation of any navigation facilities or locks on the Tennessee River, or for any experimental purpose, or used for the manufacture of fertilizer or any of the ingredients thereof, or for any other governmental purpose. The net proceeds derived by the board from the sale of power and any of the products manufactured by the corporation, after deducting the cost of operation, maintenance, depreciation, and an amount deemed by the board as necessary to withhold as operating capital, shall be paid into the Treasury of the United States at the end of each calendar year.

TITLE III. SUPPLEMENTAL PROVISIONS

SECTION 1. The Secretary of War is hereby empowered and directed to complete Dam No. 2 at Muscle Shoals, Ala., and the steam plant at nitrate plant No. 2, in the vicinity of Muscle Shoals, by installing in Dam No. 2 the additional power units according to the plans and specifications of said dam, and the additional power unit in the steam plant at nitrate plant No. 2: *Provided,* That the Secretary of War shall not install the additional power unit in said steam plant until, after investigation, he shall be satisfied that the foundation of said steam plant is sufficiently stable or has been made sufficiently stable to sustain the additional weight made necessary by such installation.

SEC. 2. The Secretary of War is hereby authorized, with appropriations hereafter to be made available by the Congress, to construct, either directly or by contract to the lowest responsible bidder, after due advertisement, a dam in and across Clinch River in the State of Tennessee, which has by long usage become known and designated as the Cove Creek Dam, according to the latest and most approved designs of the Chief of Engineers, including its power house and hydroelectric installations and equipment for the generation of at least 200,000 horsepower, in order that the waters of the said Clinch River may be impounded and stored above said dam for the purpose of increasing and regulating the flow of the Clinch River and the Tennessee River below, so that the maximum amount of primary power may be developed at Dam No. 2 and at any and all other dams below the said Cove Creek Dam.

SEC. 3. In order to enable and empower the Secretary of War to carry out the authority hereby conferred in the most economical and efficient manner, he is hereby authorized and empowered in the exercise of the powers of national defense in aid of navigation, and in the control of the flood waters of the Tennessee and Mississippi Rivers, constituting channels of interstate commerce, to exercise the right of eminent domain and to condemn all lands, easements, rights of way, and other area necessary in order to obtain a site for said Cove Creek Dam, and the flowage rights for the reservoir of water above said dam and to negotiate and conclude contracts with States, counties, municipalities, and all State agencies and with railroads, railroad corporations, common carriers, and all public-utility commissions and any other person, firm, or corporation, for the relocation of railroad tracks, highways, highway bridges, mills, ferries, electric-light plants, and any and all other properties, enterprises, and projects whose removal may be necessary in order to carry out the provisions of this act. When said Cove Creek Dam and transportation facilities and power house shall have been completed, the possession, use, and control thereof shall be intrusted to the corporation for use and operation in connection with the general Muscle Shoals project and to promote flood control and navigation in the Tennessee River and in the Clinch River.

SEC. 4. The Secretary of War is hereby authorized, with appropriation hereafter to be made available by the Congress, to construct either directly or by contract to the lowest responsible bidder, after due advertisement, a dam in and across the Tennessee River at the site designated by the Chief of Engineers of the United States Army, as Dam No. 3, in aid of navigation and for increasing the value of the power to be developed at Wilson Dam No. 2 and to install a power house and such hydroelectric generating machinery therein as may be justified, all according to the latest and most approved plans of the Chief of Engineers of the United States Army, and the disposal of the power so developed shall be subject to the board; and in order to enable the Secretary of War to carry out this authority in the most economical and efficient manner he is hereby authorized and empowered to exercise in the interest of national defense and in aid of navigation as an incident to interstate commerce the right of eminent domain and to condemn all such lands, rights of way, and other area as may be reasonably necessary in order to obtain a site for said dam and for the ponded water above said dam and to conclude contracts with States, counties, municipalities, and all State agencies, and with railroads, railroad corporations, common carriers, and all public-utilities commissions, and all other persons, firms, or corporations in any way interested in said dam site and pondage area.

SEC. 5. The corporation, as an instrumentality and agency of the Government of the United States for the purpose of executing its constitutional powers, shall have access to the Patent Office of the United States for the purpose of studying, ascertaining, and copying all methods, formulas, and scientific information (not including access to pending applications for patents) necessary to enable the corporation to use and employ the most efficacious and economical process for the production of fixed nitrogen, or any essential ingredient of fertilizer, and any patentee whose patent rights may have been thus in any way copied, used, or employed by the exercise of this authority by the corporation shall have as the exclusive remedy a cause of action to be instituted and prosecuted on the equity side of the appropriate district court of the United States for the recovery of reasonable compensation. The Commissioner of Patents shall furnish to the corporation, at its request and without payment of fees, copies of documents on file in his office.

SEC. 6 (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States shall apply to the moneys and property of the corporation and to moneys and properties of the United States intrusted to the corporation.

(b) Any person who, with intent to defraud the corporation, or to deceive any director or officer of the corporation or any officer or employee of the United States (1) makes any false entry in any book of the corporation, or (2) makes any false report or statement for the corporation shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $5,000 or imprisoned not more than five years, or both.

SEC. 7. In order that the board may not be delayed in carrying out the program authorized herein the sum of $10,000,000 is hereby authorized to be appropriated for that purpose from the Treasury of the United States, of which not to exceed $2,000,000 shall be made available with which to begin construction of Cove Creek Dam during the calendar year 1931.

SEC. 8. That all appropriations necessary to carry out any of the provisions of this act are hereby authorized. This act may be cited as "the Muscle Shoals act of 1930."

SEC. 9. That all acts or parts of acts in conflict herewith are hereby repealed.

SEC. 10. That this act shall take effect immediately.

SEC. 11. The right to alter, amend, or repeal this act is hereby expressly declared and reserved, but not to impair the obligation of any contract that may have been entered into pursuant to the powers herein conferred upon the board.

EXTENSION OF REMARKS

Mr. SCHAFER of Wisconsin. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the question of

prohibition in the State of Washington, and to include in my remarks a short extract from the platform recently adopted by the Republican Party of that State.

The SPEAKER. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the RECORD on the subject of prohibition in the State of Washington, and to print in connection therewith extracts from the Republican platform of the State of Washington. Is there objection?

Mr. PATTERSON. Reserving the right to object, Mr. Speaker, I wish to ask my good friend if he has consulted the gentleman from Massachusetts about including this platform?

Mr. SCHAFER of Wisconsin. I have not consulted the gentleman from Massachusetts. I have had high hopes that we might have similar action taken by the Republican Party in Massachusetts so I could make the same request with reference to that State.

Mr. PATTERSON. Maybe he would make the request himself in case that were to happen, and I withdraw any objection.

Mr. SLOAN. Mr. Speaker, I reserve the right to object. I do not see any Member of this House from the State of Washington present, and perhaps there should be one person who defends his State against this particular and very frequent, though not unexpected, attack, and I suggest that the gentleman make this request when there is a Washington Member of the Congress present. This is about the close of the day——

Mr. SCHAFER of Wisconsin. The gentleman does not believe that any Republican Member of Congress would object to incorporating in the CONGRESSIONAL RECORD a portion of the Republican platform upon which he is going to run?

Mr. SLOAN. I would rather let them settle that. Possibly if we would take care of Wisconsin and Nebraska we would be doing fairly well without taking charge of the far-off States along the coast. Will the gentleman withhold his request until to-morrow?

Mr. SCHAFER of Wisconsin. In view of the statement of the gentleman I withdraw my request at this time so that I may have an opportunity to interview the Republican Members of Congress from the State of Washington to ascertain whether they are going to repudiate the platform declarations of their party in their own State with reference to prohibition.

Mr. SLOAN. That is thoroughly satisfactory to me.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and under the rule referred as follows:

S. 35. An act for the relief of James W. Nugent; to the Committee on Military Affairs.

S. 107. An act establishing additional land offices in the States of Montana, Oregon, South Dakota, Idaho, New Mexico, Colorado, and Nevada; to the Committee on the Public Lands.

S. 308. An act for the relief of August Mohr; to the Committee on Claims.

S. 1164. An act authorizing and directing the Secretary of Agriculture to investigate all phases of crop insurance; to the Committee on Agriculture.

S. 1270. An act providing for the construction of roads on the Fort Belknap Indian Reservation in the State of Montana; to the Committee on Indian Affairs.

S. 1536. An act for the relief of Blanch Broomfield; to the Committee on Claims.

S. 1697. An act for the relief of Peter C. Hains, jr.; to the Committee on Military Affairs.

S. 1785. An act providing for the construction of roads on the Blackfeet Indian Reservation in the State of Montana; to the Committee on Indian Affairs.

S. 1918. An act for the relief of Irene Strauss; to the Committee on Claims.

S. 1985. An act providing against misuse of official badges; to the Committee on the Judiciary.

S. 2231. An act to reserve certain lands on the public domain in Arizona for the use and benefit of the Papago Indians, and for other purposes; to the Committee on Indian Affairs.

S. 2332. An act for the relief of Milburn Knapp; to the Committee on Claims.

S. 2334. An act for the relief of Wallace E. Ordway; to the Committee on Claims.

S. 2895. An act authorizing the bands or tribes of Indians known and designated as the Middle Oregon or Warm Springs Tribe of Indians of Oregon, or either of them, to submit their claims to the Court of Claims; to the Committee on Indian Affairs.

S. 3068. An act to amend section 355 of the Revised Statutes; to the Committee on the Judiciary.

S. 3156. An act providing for the final enrollment of the Indians of the Klamath Indian Reservation in the State of Oregon; to the Committee on Indian Affairs.

S. 3165. An act conferring jurisdiction upon the Court of Claims to hear, consider, and report upon a claim of the Choctaw and Chickasaw Indian nations or tribes for fair and just compensation for the remainder of the leased district lands; to the Committee on Indian Affairs.

S. 3490. An act to define, regulate, and license real-estate brokers, and real-estate salesmen; to create a real-estate commission in the District of Columbia; to protect the public against fraud in real-estate transactions, and for other purposes; to the Committee on the District of Columbia.

S. 3581. An act authorizing the Secretary of the Interior to arrange with States for the education, medical attention, and relief of distress of Indians, and for other purposes; to the Committee on Indians Affairs.

S. 3712. An act to establish a military record for Charles Morton Wilson; to the Committee on Military Affairs.

S. 4002. An act providing for the construction of roads on the Rocky Boy Indian Reservation in the State of Montana; to the Committee on Indian Affairs.

S. 4195. An act for the relief of Samuel W. Brown; to the Committee on War Claims.

S. 4205. An act to amend paragraph (6) of section 5 of the interstate commerce act, as amended; to the Committee on Interstate and Foreign Commerce.

S. 4235. An act to prohibit the sending of unsolicited merchandise through the mails; to the Committee on Post Offices and Post Roads.

S. 4242. An act to fix the salaries of the commissioners of the District of Columbia; to the Committee on the District of Columbia.

S. 4531. An act authorizing a survey by the Public Health Service in connection with the control of cancer; to the Committee on Interstate and Foreign Commerce.

S. J. Res. 76. Joint resolution authorizing the Secretary of the Treasury to purchase farm-loan bonds issued by Federal land banks; to the Committee on Banking and Currency.

S. J. Res. 168. Joint resolution declaring the transfer of the St. Charles Bridge over the Missouri River on National Highway No. 40 not a sale; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 293. An act for the relief of James Albert Couch, otherwise known as Albert Couch;

H. R. 567. An act for the relief of Rolla Duncan;

H. R. 591. An act for the relief of Howard C. Frink;

H. R. 649. An act for the relief of Albert E. Edwards;

H. R. 666. An act authorizing the Secretary of the Treasury to pay to Eva Broderick for the hire of an automobile by agents of Indian Service;

H. R. 833. An act for the relief of Verl L. Amsbaugh;

H. R. 1198. An act to authorize the United States to be made a party defendant in any suit or action which may be commenced by the State of Oregon in the United States District Court for the District of Oregon for the determination of the title to all or any of the lands constituting the beds of Malheur and Harney Lakes in Harney County, Oreg., and lands riparian thereto, and to all or any of the waters of said lakes and their tributaries, together with the right to control the use thereof, authorizing all persons claiming to have an interest in said land, water, or the use thereof to be made parties or to intervene in said suit or action, and conferring jurisdiction on the United States courts over such cause;

H. R. 1837. An act for the relief of Kurt Falb;

H. R. 2152. An act to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture, and for other purposes;

H. R. 2604. An act for the relief of Don A. Spencer;

H. R. 5259. An act to amend section 939 of the Revised Statutes;

H. R. 5262. An act to amend section 829 of the Revised Statutes of the United States;

H. R. 5266. An act to amend section 649 of the Revised Statutes (U. S. C., title 28, sec. 773);

H. R. 5268. An act to amend section 1112 of the Code of Law for the District of Columbia;

H. R. 6083. An act for the relief of Goldberg & Levkoff;

H. R. 6084. An act to ratify the action of a local board of sales control in respect to contracts between the United States and Goldberg & Levkoff;

H. R. 6142. An act to authorize the Secretary of the Navy to lease the United States naval destroyer and submarine base, Squantum, Mass.;

H. R. 6151. An act to authorize the Secretary of War to assume the care, custody, and control of the monument to the memory of the soldiers who fell in the Battle of New Orleans at Chalmette, La., and to maintain the monument and grounds surrounding it;

H. R. 6414. An act authorizing the Court of Claims of the United States to hear and determine the claim of the city of Park Place, heretofore an independent municipality but now a part of the city of Houston, Tex.;

H. R. 7333. An act for the relief of Allen Nichols;

H. R. 8854. An act for the relief of William Taylor Coburn;

H. R. 9154. An act to provide for the construction of a revetment wall at Fort Moultrie, S. C.;

H. R. 9334. An act to provide for the study, investigation, and survey, for commemorative purposes, of the battle field of Saratoga, N. Y.;

H. R. 10082. An act to authorize the attendance of the Marine Band at the national encampment of the Grand Army of the Republic at Cincinnati, Ohio;

H. R. 10877. An act authorizing appropriations to be expended under the provisions of sections 4 to 14 of the act of March 1, 1911, entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," as amended;

H. R. 11703. An act granting the consent of Congress to the city of Olean, N. Y., to construct, maintain, and operate a free highway bridge across the Allegheny River at or near Olean, N. Y.; and

H. J. Res. 343. Joint resolution to supply a deficiency in the appropriation for miscellaneous items, contingent fund of the House of Representatives.

The Speaker announced his signature to enrolled bills of the Senate of the following titles:

S. 218. An act to place Norman A. Ross on the retired list of the Navy;

S. 286. An act for the relief of Thelma Phelps Lester;

S. 888. An act for the relief of Francis J. McDonald;

S. 1309. An act granting six months' pay to Mary A. Bourgeois;

S. 1572. An act for the relief of the Allegheny Forging Co.;

S. 1578. An act to extend the times for commencing and completing the construction of a bridge across the Illinois River, at or near Peoria, Ill.;

S. 2245. An act for the relief of A. H. Cousins;

S. 2524. An act for the relief of J. A. Lemire;

S. 3189. An act for the relief of the State of South Carolina for damage to destruction of roads and bridges by floods in 1929;

S. 3586. An act for the relief of George Campbell Armstrong;

S. 3910. An act to authorize the President to appoint Capt. Charles H. Harlow a commodore on the retired list;

S. 4182. An act granting the consent of Congress to the county of Georgetown, S. C., to construct, maintain, and operate a bridge across the Pee Dee River and a bridge across the Waccamaw River, both at or near Georgetown, S. C.; and

S. 4481. An act authorizing the exchange of certain real properties situated in Mobile, Ala., between the Secretary of Commerce on behalf of the United States Government and the Gulf, Mobile & Northern Railroad Co., by the appropriate conveyances containing certain conditions and reservations.

ADJOURNMENT

Mr. McLEOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 45 minutes p. m.) the House adjourned until to-morrow, Tuesday, May 27, 1930, at 12 o'clock noon.

## COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Tuesday, May 27, 1930, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON THE DISTRICT OF COLUMBIA—SUBCOMMITTEE ON EDUCATION

Room 452, House Office Building (8 p. m.)

To provide an elective school board for the District of Columbia (H. R. 1413).

To amend the teachers' retirement act (H. R. 10470).

To amend the teachers' salary act (H. R. 10656).

To refund salaries to assistant directors of public schools (H. R. 12158).

To authorize use of old Business High School (S. 4227).

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

Second deficiency bill.

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

Authorizing the Secretary of the Navy to accept, without cost to the Government of the United States, a lighter-than-air base near Sunnyvale, in the county of Santa Clara, State of California, and construct necessary improvements thereon (H. R. 6810).

Authorizing the Secretary of the Navy to accept a free site for a lighter-than-air base at Camp Kearny, near San Diego, Calif., and construct necessary improvements thereon (H. R. 6808).

COMMITTEE ON BANKING AND CURRENCY

(2.30 p. m.)

To authorize the Committee on Banking and Currency to investigate chain and branch banking (H. Res. 141).

COMMITTEE ON MILITARY AFFAIRS

(10.30 a. m.)

To authorize the design, construction, and procurement of one metal-clad airship of approximately 100 (long) tons gross lift and of a type suitable for transport purposes for the Army Air Corps (H. R. 12199).

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

499. A letter from the acting Secretary of War, transmitting report from the Chief of Engineers on preliminary examination and survey of Broadkill River, Del.; to the Committee on Rivers and Harbors.

500. A letter from the acting Secretary of War, transmitting report from the Chief of Engineers on Neshaminy Creek, Pa., covering navigation, flood control, power development, and irrigation (H. Doc. No. 429); to the Committee on Rivers and Harbors and ordered to be printed.

501. A letter from the acting Secretary of War, transmitting report from the Chief of Engineers on the St. Francis River, Ark. (backwater area), covering navigation, flood control, power development, and irrigation; this report is supplementary to the one printed in House Document No. 159, Seventy-first Congress, second session (H. Doc. No. 430); to the Committee on Rivers and Harbors and ordered to be printed; illustrations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. HILL of Alabama: Committee on Military Affairs. H. R. 8140. A bill to provide for the policing of military roads leading out of the District of Columbia, and for other purposes; with amendment (Rept. No. 1654). Referred to the Committee of the Whole House on the state of the Union.

Mr. HILL of Alabama: Committee on Military Affairs. S. 174. An act to provide for the establishment of a branch home of the National Home for Disabled Volunteer Soldiers in one of the Southeastern States; with amendment (Rept. No. 1655). Referred to the Committee of the Whole House on the state of the Union.

Mr. McFADDEN: Committee on Banking and Currency. S. 485. An act to amend section 9 of the Federal reserve act and section 5240 of the Revised Statutes of the United States, and for other purposes; without amendment (Rept. No. 1656). Referred to the House Calendar.

Mr. McFADDEN: Committee on Banking and Currency: S. 486. An act to amend section 5153 of the Revised Statutes, as amended; without amendment (Rept. No. 1657). Referred to the House Calendar.

Mr. GOLDER: Committee on Banking and Currency. (S. 3627. An act to amend the Federal reserve act so as to enable national banks voluntarily to surrender the right to exercise trust powers and to relieve themselves of the necessity of complying with the laws governing banks exercising such powers, and for other purposes; without amendment (Rept. No. 1658). Referred to the House Calendar.

Mr. McFADDEN: Committee on Banking and Currency: S. 4079. An act to amend section 4 of the Federal reserve act; without amendment (Rept. No. 1659). Referred to the House Calendar.

## REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. IRWIN: Committee on Claims. S. 917. An act for the relief of Margaret Diederich; without amendment (Rept. No. 1638). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 1571. An act for the relief of William K. Kennedy; without amendment (Rept. No. 1639). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 1849. An act for the relief of Francis B. Kennedy; without amendment (Rept. No. 1640.) Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 1851. An act for the relief of S. Vaughan Furniture Co., Florence, S. C.; without amendment (Rept. No. 1641). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 2013. An act for the relief of Germaine M. Finley; without amendment (Rept. No. 1642). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 2774. An act for the relief of Nick Rizou Theodore; without amendment (Rept. No. 1643). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. S. 3553. An act for the relief of R. A. Ogee, sr.; without amendment (Rept. No. 1644). Referred to the Committee of the Whole House.

Mr. DOXEY: Committee on Claims. H. R. 1514. A bill for the relief of the estate of Moses M. Bane; without amendment (Rept. No. 1645). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 6652. A bill for the relief of William Knourek; without amendment (Rept. No. 1646). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 8818. A bill for the relief of James M. Pace; without amendment (Rept. No. 1647). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 8835. A bill for the relief of Harry Harsin; without amendment (Rept. No. 1648). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 9035. A bill for the relief of Walter L. Turner; without amendment (Rept. No. 1649). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 9122. A bill for the relief of E. F. Zannetta; without amendment (Rept. No. 1650). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims: H. R. 9262. A bill for the relief of the Pocahontas Fuel Co. (Inc.); without amendment (Rept. No. 1651). Referred to the Committee of the Whole House.

Mr. IRWIN: Committee on Claims. H. R. 9780. A bill for the relief of J. P. Moynihan; without amendment (Rept. No. 1652). Referred to the Committee of the Whole House.

Mr. BUTLER: Committee on Claims. H. R. 10503. A bill for the relief of Portland Electric Power Co.; with amendment (Rept. No. 1653). Referred to the Committee of the Whole House.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EVANS of California: A bill (H. R. 12612) authorizing the head of any executive department or officer to furnish copies of books, records, and papers within his custody, and permit the admission in evidence of such copies; to the Committee on the Judiciary.

By Mr. PRITCHARD: A bill (H. R. 12613) to authorize the Postmaster General to impose demurrage charges on undelivered collection-on-delivery parcels; to the Committee on the Post Office and Post Roads.

By Mr. REID of Illinois: A bill (H. R. 12614) granting the consent of Congress to the city of Aurora, Ill., to construct, maintain, and operate a free highway bridge from Stolps Island in the Fox River, at Aurora, Ill., to connect with the existing highway bridge across the Fox River north of Stolps Island; to the Committee on Interstate and Foreign Commerce.

By Mr. SIMMS: A bill (H. R. 12615) to render the present Indian Pueblo governments more effective and efficient and to aid them in the administration of justice, law, and order in the pueblos of New Mexico; to the Committee on Indian Affairs.

By Mr. VINSON of Georgia: A bill (H. R. 12616) granting the consent of Congress to the State of Georgia and the counties of Wilkinson, Washington, and Johnson to construct, maintain, and operate a free highway bridge across the Oconee River at or near Balls Ferry, Ga.; to the Committee on Interstate and Foreign Commerce.

By Mr. YON: A bill (H. R. 12617) granting the consent of Congress to the State of Florida, through its highway department, to construct a bridge across the Choctawhatchee River east of Freeport, Fla.; to the Committee on Interstate and Foreign Commerce.

By Mr. CELLER: A bill (H. R. 12618) to fix the salaries of certain judges of the United States; to the Committee on the Judiciary.

By Mr. PATMAN: Resolution (H. Res. 226) to establish a select committee to investigate certain interests charged with depressing and holding down the price of cottonseed oil; to the Committee on Rules.

By Mr. ANDRESEN: Joint resolution (H. J. Res. 348) proposing an amendment to the Constitution of the United States providing for ratification of proposed amendments to the Constitution of the United States by the people of the several States; to the Committee on the Judiciary.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BUCKBEE: A bill (H. R. 12619) granting an increase of pension to Annie L. Fox; to the Committee on Invalid Pensions.

By Mr. GAVAGAN: A bill (H. R. 12620) for the relief of Samuel Charles Hampton; to the Committee on Naval Affairs.

By Mr. GOODWIN: A bill (H. R. 12621) granting a pension to John Shirmer; to the Committee on Invalid Pensions.

By Mr. HANCOCK: A bill (H. R. 12622) granting an increase of pension to Melissa Crossett; to the Committee on Invalid Pensions.

By Mr. HOGG: A bill (H. R. 12623) granting an increase of pension to Mary E. S. Baker; to the Committee on Invalid Pensions.

By Mr. HOOPER: A bill (H. R. 12624) granting a pension to Martha McLeod; to the Committee on Invalid Pensions.

By Mr. HOPKINS: A bill (H. R. 12625) granting a pension to Mary E. Weddle; to the Committee on Invalid Pensions.

By Mr. KORELL: A bill (H. R. 12626) granting an increase of pension to Lena E. Potter; to the Committee on Invalid Pensions.

By Mrs. LANGLEY: A bill (H. R. 12627) granting a pension to Benjamin F. Kelley; to the Committee on Pensions.

By Mr. MENGES: A bill (H. R. 12628) granting an increase of pension to Agnes Snyder; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12629) granting an increase of pension to Ernestine W. Shetrone; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12630) granting an increase of pension to Philomena M. Wolf; to the Committee on Invalid Pensions.

By Mr. NELSON of Wisconsin: A bill (H. R. 12631) granting a pension to Sarah Margaret Ethridge; to the Committee on Invalid Pensions.

By Mr. PALMISANO: A bill (H. R. 12632) for the relief of Frank J. Michel and Barbara M. Michel; to the Committee on Claims.

Also, a bill (H. R. 12633) for the relief of Sophia Mary Klima; to the Committee on Claims.

Also, a bill (H. R. 12634) for the relief of Katie Kroart; to the Committee on Claims.

By Mr. FRANK M. RAMEY: A bill (H. R. 12635) granting a pension to Margaret M. Hammond; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12636) for the relief of Percy A. Casserleigh; to the Committee on Claims.

By Mr. ROWBOTTOM: A bill (H. R. 12637) granting an increase of pension to Susan King; to the Committee on Invalid Pensions.

By Mr. SWICK: A bill (H. R. 12638) granting an increase of pension to Kate Fetter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12639) granting an increase of pension to Ibbie Shindel; 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:

7379. By Mr. FITZGERALD: Petition of Ernest O. Brown and 16 other citizens of Dayton, Montgomery County, Ohio, petitioning for a repeal or modification of the prohibition laws; to the Committee on the Judiciary.

7380. By Mr. HUDSON: Petition of the board of directors of the Michigan State Farm Bureau, Lansing, Mich., commending the stand taken by Alexander Legge, of the Federal

Farm Board, and Secretary of Agriculture, Hon. Arthur M. Hyde, before the annual meeting of the Chamber of Commerce of the United States at Washington the week ending May 3, 1930; to the Committee on Agriculture.

7381. By Mr. KORELL: Petition of citizens of Multnomah County, Oreg., favoring the passage of House bill 8976; to the Committee on Pensions.

7382. By Mr. MEAD: Petition of Woman's Christian Temperance Union, of Hamburg, N. Y., re legislation for Federal supervision of motion pictures; to the Committee on Interstate and Foreign Commerce.

7383. Also, petition of National League of Women Voters, favoring legislation on maternal and child hygiene; to the Committee on Interstate and Foreign Commerce.

7384. Also, petition of Woman's Christian Temperance Union, of Woodlawn Beach, N. Y., re legislation for Federal supervision of motion pictures; to the Committee on Interstate and Foreign Commerce.

7385. By Mrs. NORTON: Petition of William Peters and others, of Jersey City, N. J., against proposed calendar change of weekly cycle; to the Committee on Foreign Affairs.

7386. By Mr. SMITH of West Virginia: Resolution adopted by the State Bridge Commission of West Virginia, praying for the elimination of toll bridges in West Virginia, and that in the future the Congress of the United States shall not issue franchises for construction thereof within or partly within said State; to the Committee on Interstate and Foreign Commerce.

7387. Also, resolution adopted by the district convention of the ninth district of the American Legion, Department of West Virginia, held at Elkins, W. Va., on May 22, 1930, urging the amendment of certain sections of House bill 10381; to the Committee on World War Veterans' Legislation.

7388. By Mr. SULLIVAN of Pennsylvania: Petition of the firm of Watson & Freeman, Pittsburgh, Pa., protesting against amending House bill 9433, the Federal farm loan act; to the Committee on Banking and Currency.

7389. By Mr. WOLVERTON of West Virginia: Petition of Daniel N. McCartney, of Silica, W. Va., urging Congress to take favorable action of the Patman bill, providing for payment of veterans' adjusted compensation certificates; to the Committee on Ways and Means.

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## SENATE

### TUESDAY, *May 27, 1930*

*(Legislative day of Monday, May 26, 1930)*

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

The VICE PRESIDENT. The Senate will receive a message from the House of Representatives.

#### MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Farrell, its enrolling clerk, announced that the House had passed the joint resolution (S. J. Res. 77) providing for the closing of Center Market in the city of Washington, with an amendment, in which it requested the concurrence of the Senate.

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

H.R. 4015. An act to provide for the revocation and suspension of operators' and chauffeurs' 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. 9641. An act to control the possession, sale, transfer, and use of dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes; and

H. R. 12571. An act to provide for the transportation of school children in the District of Columbia at a reduced fare.

#### ENROLLED BILLS AND JOINT RESOLUTION SIGNED

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

S. 218. An act to place Norman A. Ross on the retired list of the Navy;

S. 286. An act for the relief of Thelma Phelps Lester;

S. 888. An act for the relief of Francis J. McDonald;

S. 1309. An act granting six months' pay to Mary A. Bourgeois;

S. 1572. An act for the relief of the Allegheny Forging Co.;

S. 1578. An act to extend the times for commencing and completing the construction of a bridge across the Illinois River, at or near Peoria, Ill.;

S. 2245. An act for the relief of A. H. Cousins;

S. 2524. An act for the relief of J. A. Lemire;

S. 3189. An act for the relief of the State of South Carolina for damages to and destruction of roads and bridges by floods in 1929;

S. 3586. An act for the relief of George Campbell Armstrong;

S. 3910. An act to authorize the President to appoint Capt. Charles H. Harlow a commodore on the retired list;

S. 4182. An act granting the consent of Congress to the county of Georgetown, S. C., to construct, maintain, and operate a bridge across the Peedee River and a bridge across the Waccamaw River, both at or near Georgetown, S. C.;

S. 4481. An act authorizing the exchange of certain real properties situated in Mobile, Ala., between the Secretary of Commerce on behalf of the United States Government and the Gulf, Mobile & Northern Railroad Co., by the appropriate conveyances containing certain conditions and reservations;

H. R. 293. An act for the relief of James Albert Couch, otherwise known as Albert Couch;

H. R. 567. An act for the relief of Rolla Duncan;

H. R. 591. An act for the relief of Howard C. Frink;

H. R. 649. An act for the relief of Albert E. Edwards;

H. R. 666. An act authorizing the Secretary of the Treasury to pay to Eva Broderick for the hire of an automobile by agents of Indian Service;

H. R. 833. An act for the relief of Verl L. Amsbaugh;

H. R. 1198. An act to authorize the United States to be made a party defendant in any suit or action which may be commenced by the State of Oregon in the United States District Court for the District of Oregon for the determination of the title to all or any of the lands constituting the beds of Malheur and Harney Lakes in Harney County, Oreg., and lands riparian thereto, and to all or any of the waters of said lakes and their tributaries, together with the right to control the use thereof, authorizing all persons claiming to have an interest in said land, water, or the use thereof to be made parties to or to intervene in said suit or action, and conferring jurisdiction on the United States courts over such cause;

H. R. 1837. An act for the relief of Kurt Falb;

H. R. 2152. An act to promote the agriculture of the United States by expanding in the foreign field the service now rendered by the United States Department of Agriculture in acquiring and diffusing useful information regarding agriculture, and for other purposes;

H. R. 2604. An act for the relief of Don A. Spencer;

H. R. 5259. An act to amend section 939 of the Revised Statutes;

H. R. 5262. An act to amend section 829 of the Revised Statutes of the United States;

H. R. 5266. An act to amend section 649 of the Revised Statutes (U. S. C., title 28, sec. 773);

H. R. 5268. An act to amend section 1112 of the Code of Law for the District of Columbia;

H. R. 6083. An act for the relief of Goldberg & Levkoff;

H. R. 6084. An act to ratify the action of a local board of sales control in respect to contracts between the United States and Goldberg & Levkoff;

H. R. 6142. An act to authorize the Secretary of the Navy to lease the United States naval destroyer and submarine base, Squantum, Mass.;

H. R. 6151. An act to authorize the Secretary of War to assume the care, custody, and control of the monument to the memory of the soldiers who fell in the Battle of New Orleans at Chalmette, La., and to maintain the monument and grounds surrounding it;

H. R. 6414. An act authorizing the Court of Claims of the United States to hear and determine the claim of the city of Park Place, heretofore an independent municipality but now a part of the city of Houston, Tex.;

H. R. 7333. An act for the relief of Allen Nichols;

H. R. 8854. An act for the relief of William Taylor Coburn;

H. R. 9154. An act to provide for the construction of a revetment wall at Fort Moultrie, S. C.;

H. R. 9334. An act to provide for the study, investigation, and survey, for commemorative purposes, of the battle field of Saratoga, N. Y.;